

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

----- X

June 27, 2019  
Start: 10:12 a.m.  
Recess: 1:12 p.m.

HELD AT: 250 Broadway - Committee Rm.  
16<sup>th</sup> Fl.

B E F O R E: DONOVAN J. RICHARDS  
Chairperson

COUNCIL MEMBERS: Adrienne E. Adams  
Justin L. Brannan  
Fernando Cabrera  
Andrew Cohen  
Chaim M. Deutsch  
Vanessa L. Gibson  
Rory I. Lancman  
Carlos Menchaca  
I. Daneek Miller  
Keith Powers  
Ydanis A. Rodriguez  
Paul A. Vallone

## A P P E A R A N C E S (CONTINUED)

Oleg Chernyavsky, Executive Director of  
Legislative Affairs for the NYPD

James Essig, Assistant Chief of the Detective  
Bureau, NYPD

Marie Delus, Marine of Desert Storm,  
Sharpshooter, and member of Moms Demand Action  
for Gun Sense in America

Natalie Eisner, Moms Demand Action

Lilanna Zaragoza Representing NAACP Legal Defense  
Fund, Bronx Defenders & Center for Constitutional  
Rights

Fazia Siddiqui, Legal Intern, Girls for Gender  
Equity

Albert Cahn, Executive Director and Founder of  
Surveillance Technology Oversight Project

Yung-Mi Lee, Brooklyn Defender Services

Alex Vitale, Policing and Social Justice Project,  
Brooklyn College

Fidel Guzman form Blood Gang Member, and  
Close Rikers Campaign Member

Victor Dempsey, Community Organizer, Legal Aid  
Society, Criminal Justice Unit

Dave Howell, CUNY School of Law

Craig Lewis, Legal Aid Society

David Pacino, Staff Attorney, Keifer's Law Center  
to Prevent Gun Violence

Diane Kingston a/k/a Diane Malika Momine (sic)  
Houston

2 [sound check] [pause] [gavel]

3 CHAIRPERSON RICHARDS: Alrighty, Good  
4 morning. I'm Council Member Donovan Richards from  
5 the 31<sup>st</sup> District in Queens and I'm the Chair of the  
6 Public Safety Committee. This is our second hearing  
7 this month, and unfortunately, just as we did earlier  
8 this month, we have to begin on a somber note as  
9 another NYPD officer took his life this morning no  
10 low-income. This is the fourth member of the NYPD to  
11 take their own life this month, and the sixth this  
12 year. This is a crisis that we have a responsibility  
13 to figure out how to appropriately address. We may  
14 never know what these officers were going through,  
15 but I'm committed to working with Commissioner O'Neil  
16 to figure out how we can create better support  
17 services for our officers that provide them the  
18 freedom to come forward to speak to professionals  
19 without fear of losing a paycheck or their job. We  
20 have to get a handle on this as soon as possible and  
21 I look forward to having more discussions with the  
22 NYPD on how the Council can help to expand the  
23 resources that available to officers and eradicating  
24 the stigma that come along with law enforcement  
25 officers speaking about their mental health. Let's

2 have a moment of silence. [moment of silence] Thank  
3 you. Today we are taking up several pieces of  
4 legislation. I'll start with the two bills related  
5 to untraceable firearms that are also—that I'm also  
6 co-sponsoring, Introduction No. 1553 sponsored by  
7 Council Member Rosenthal in relation to prohibiting  
8 unfinished frames or receivers, which are items that  
9 can be purchased on the Internet and easily converted  
10 into untraceable firearms. Introduction 1548  
11 sponsored by myself and East Queens colleague who  
12 will be here, Council Member Miller in relation to  
13 reporting on the seizure of 3-dimensional pointed  
14 guns, and those guns or any piece of part thereof.  
15 In Resolution No. 866 also sponsored by Council  
16 Member Miller calling on the United States Congress  
17 to pass and the President to sign HR7115 also  
18 referred to as the 3D Firearms Prohibition Act. We  
19 are also hearing a bill sponsored by Council Member  
20 Dromm that seeks to uphold the presumption of  
21 innocence that that is fundamental to our nation's  
22 justice systems, but it isn't always honored in the  
23 court of public opinion. The bill is Introduction  
24 No. 635 in relation to prohibiting staged perp walks.  
25 Next we are hearing a bill sponsored by Council

2 Member Treyger who unfortunately can't be present  
3 today, Introduction No. 567 in relation to internet  
4 purchase-purchase exchange locations, which would  
5 create safe spaces for people to conduct transactions  
6 initiated online with strangers. Now, I'll turned to  
7 one of the bills I'm co-sponsoring along with my-my  
8 colleague 3D Council Member Borelli Introduction No.  
9 1244 in relation to prohibiting certain unsolicited  
10 disclosures of intimate images. This bill would make  
11 it a crime to send a stranger unwanted nude  
12 photographs using electronic devices and software  
13 such as Apples' iDrop. Now, I'm all for advances in  
14 technology, but the last thing we need is another way  
15 for people to engage in sexual harassment. Anyone  
16 who's been to one of my hearings knows I oppose the  
17 expansion of the Criminal Justice System, but there  
18 really is no justification for this kind of conduct.  
19 It's not a crime of poverty. This is just about  
20 basic decency and protecting potential victims of  
21 sexual harassment. Last, but certainly not least, I  
22 want to turn to a very important bill that I'm  
23 sponsoring, which follows up on a hearing we did last  
24 year addressing the NYPD's Gang Database.  
25 Preconsidered Introduction T2018-2223 would require

2 the NYPD to provide notice to minors included in the  
3 Criminal-Criminal-Criminal Group's database also  
4 known as the Gang Database. This bill represents a  
5 small, but crucial first step to achieving  
6 transparency and oversight of law enforcement that  
7 raises a lot of concerns about the policing and  
8 racial equity in this city. I was particularly  
9 alarmed last year to learn that almost 10% of the  
10 individuals who the NYPD keeps track of because they  
11 believe that that person is involved with a gang are  
12 under 18 years old, with some as young as 13 and 14  
13 years old. We also learned that those kids who are  
14 incident to the database are not re-evaluated until  
15 their 23<sup>rd</sup> birthday. That means that these young  
16 kids, and they are pretty much all young black and  
17 Latino kids, 99% to be exact grow up being tracked  
18 and surveilled may be arrested more frequently for  
19 minor conduct, may be subject to other collateral  
20 consequences for their entire teenage lives, and  
21 that's true even if they had never been convicted of  
22 a crime because a criminal record is not a  
23 prerequisite to entry into the database. Let me  
24 pause here and clarify one thing. I am not ignoring  
25 the harms of gang violence. It's a problem in the

2 very communities we have perpetually left behind.  
3 Many of the residents in those communities including  
4 mine want the NYPD to take actions against those  
5 individuals who are responsible for violence. I'm not  
6 saying the NYPD shouldn't investigate and arrest  
7 people who are responsible for violence, and I'm not  
8 saying that keeping track of those individuals is in  
9 and of itself an invalid law enforcement tool, but I  
10 am saying that when there is a history of racially  
11 biased policing in this city that has caused far more  
12 collateral consequences for people of color, that we  
13 have to ensure we are not criminalizing people for  
14 having friendship and family members in certain zip  
15 codes wearing certain colors or posing in pictures  
16 with people from your block and posting them  
17 Facebook, there has to be some external oversight  
18 about who goes into this database and who comes out  
19 and why. There has to be some discussion about what  
20 is a good reason to label someone a gang member. I  
21 believe that this bill is a good place to start. I  
22 think we need to give our young people a chance to  
23 choose a different life, and we need to give them  
24 some due process, a chance to clear their name when  
25 they are incorrectly suspected of gang involvement.

2 Our hearing last fall was the beginning of the  
3 conversation about how we police gangs. This bill is  
4 the beginning of the conversation about what we at  
5 the Council are obligated to do to make sure that  
6 these law enforcement tactics do not perpetuate the  
7 criminalization of black and brown folks. There are  
8 certainly other issues with the Gang Database that  
9 I've alluded to that may warrant further legislation,  
10 but for today I look forward to having a robust  
11 discussion about how we can use notifications to  
12 minors and their parents as a tool to communicate to  
13 these young people that we are concerned about the  
14 choices that they are making. We should be focusing  
15 on getting them back on track, rather than sitting  
16 back and waiting for them to make a mistake that will  
17 land them in prison because we—because we can and we  
18 must do better than that. So, with that, I don't see  
19 any other sponsors here of these bills. So, we will  
20 go to our first panel, and I want to welcome NYPD  
21 Executive Director Oleg Chernyavsky. Still learning  
22 that, and Assistant Chief James Essig from the NYPD.  
23 So, I want to thank you for being here and you may  
24 begin your testimony.

2 LEGAL COUNSEL: Do you affirm to tell the  
3 truth, the whole truth and nothing but and answer all  
4 questions to the best of your ability?

5 OLEG CHERNYAVSKY: Yes. [pause] [coughs]  
6 Good after-good afternoon, Chair Richards and members  
7 of the Council. I am Oleg Chernyavsky, Executive  
8 Director of Legislative Affairs for the NYPD. I'm  
9 joined here by Assistant Chief James Essig of the  
10 NYPD's Detective Bureau. On behalf of Police  
11 Commissioner James O'Neill, I wish to thank the  
12 Council for the opportunity to comment on the bills  
13 being heard today. We see everyday how neighborhood  
14 policing translate to building trust and solidifying  
15 relationships between the police and the communities  
16 we serve. These collaborative efforts between the  
17 NYPD and those that live in, work in, and visit New  
18 York City make the city a better place, a safer  
19 place. However, we must never forget that first and  
20 foremost the mission of the NYPD is to fight crime.  
21 We have driven crime to historic low-lows, while at  
22 the same time reducing the enforcement to levels  
23 rarely if ever seen in big cities. Neighborhood  
24 policing has transformed how we fight crime by  
25 partnering with those we serve, allowing us to share

2 information and more effective solve cases, and  
3 precisely deploy our resources. We know that a small  
4 fraction of our population commit a large portion of  
5 the crime in this city. This is why precision  
6 policing focuses on finding and arresting the few who  
7 weaken the fabric of our neighborhoods through  
8 violence and intimidation. Criminal groups operating  
9 on our streets are the drivers of a significant  
10 portion of the violence and drug trafficking in our  
11 city. These criminal groups be they large organized  
12 groups of smaller crews hold pockets of our city  
13 hostage terrorizing law abiding citizens who live  
14 under a constant cloud of fear, fear of stray  
15 bullets, fear of getting robbed, fear that their  
16 children will fall under this spell and fall victim  
17 to the violence they inflict on one another. Today,  
18 more and more of the violent crime stems from these  
19 crews. They—they are often specific to a  
20 neighborhood, a block or even a single building in a  
21 housing development. These crews present unique  
22 challenges to law enforcement because they lack—their  
23 lack of a defined structure makes it difficult to  
24 predict their activities or document their  
25 associations, but they remain at as dangerous as

2 their larger more structured counterparts. Our long-  
3 term criminal group investigations are the very  
4 definition of precision policing, and their  
5 usefulness cannot be overstated. The results speak  
6 for themselves. When we do large takedowns,  
7 shootings drop precipally-precipitously. A takedown  
8 of three crews in the 26 Precinct resulted in a 50%  
9 drop in shootings of the next three years. In the  
10 100 and 101<sup>st</sup> Precinct, shootings dropped 41% in the  
11 18 months following a major gang takedown. This is no  
12 accident. None of this would be possible without our  
13 ability to gather information on the structures and  
14 memberships of these groups. To dismantle a criminal  
15 organization, we must understand that size and scope,  
16 who its member are, and what crimes the members are-  
17 have committed. What was once stored in file  
18 cabinets, on index cards and on displace boards is  
19 now compiled in the NYPD's Criminal Group Database  
20 collecting data on members of criminal organizations  
21 is nothing new, and we must adapt the times-to-to the  
22 times, and the technology available to us. However,  
23 our responsibility is to ensure that everyone is-that  
24 every one who is in the database is actually  
25 affiliated with a criminal group. In this era of

2 precision policing the database saturated with  
3 individuals with no criminal group affiliation would  
4 severely limit its usefulness. Let me be clear about  
5 what the database is, and what it is not. It is a  
6 diligently maintained picture of the existing active  
7 universe of criminal groups and their membership that  
8 are operating in this city. We have established  
9 safeguards to ensure that those unaffiliated with a  
10 criminal group are ensnared into the database.

11 Likewise, these safeguards ensure that those that  
12 choose to leave the gang lifestyle are removed from  
13 the database. The numbers back this up. 90.6% of  
14 our gang members have been arrested for at least one  
15 felony; 75.6% have been arrested for at least one  
16 index crime; 50.8% have been arrested for at least  
17 one robbery. In fact, the average person in the  
18 database has been arrested 11.7 times. Six hundred  
19 and 86 of our gang members have been arrested for  
20 murder and the individuals residing in the database  
21 collectively are responsible for over 19,100  
22 robberies. Already this year, they have been  
23 arrested for approximately 3,219 felonies. Our  
24 active gang members have been involved in over 4,600  
25 shootings or homicides on either side of the gun.

2 More than 2,500 of our gang members have been shot at  
3 least once. There are rigid safeguards to-for  
4 inclusion and the multi-tiered review system before  
5 someone is included in the database. Mere suspicion  
6 or hearsay will not land anyone in the database.  
7 This structure creates oversight to ensure that  
8 multiple investigators who have actual gang expertise  
9 agree that a person should be included. This review  
10 is also ongoing after entry to make sure that gang  
11 members who are no longer in the life are removed.  
12 Each person in the database is reviewed every three  
13 years as well as on their 23<sup>rd</sup> and 28<sup>th</sup> birthdays to  
14 determine if their actions and records still warrant  
15 their inclusion. Additionally, the department has a  
16 mechanism for self-initiated review at any time.  
17 Inclusion in the database is not evidence of a crime.  
18 It is a lead. Being in the database alone is not  
19 grounds for a stop and arrest or any other  
20 enforcement action. It is not made public, and does  
21 not affect the public standing or reputations of the  
22 people included since it can only be accessed by NYPD  
23 personnel. It does not show-show up in a person's  
24 criminal history or rap sheet when that person is  
25 fingerprinted. Information is not with NYCHA or-or

2 employers conducting background checks or educational  
3 institutions, and the database does share this  
4 information with Immigration and Customs Enforcement.  
5 New York State does not permit civil gang injunctions  
6 such as those routinely utilized in California.  
7 Unlike any states, New York does not have the  
8 sentencing enhancement for gang members. Finally,  
9 New York does not have a statute that makes it  
10 illegal merely to be in a gang. A person's presence  
11 in the NYPD Criminal Group Database simply does not  
12 have the collateral consequences seen in other  
13 jurisdictions. I would now like to address various  
14 pieces of legislation being heard today.  
15 Preconsidered Intro T218-2223 would require the NYPD  
16 to notify minors under 18 of their in the Criminal  
17 Group Database unless doing so would impede and  
18 ongoing investigation, and give them enough--an avenue  
19 to appeal their inclusion. The department  
20 respectfully opposes this legislation to the extent  
21 it requires disclosure of investi--investigatory  
22 inves-information. As I explained earlier in my  
23 testimony, safeguards against the release and  
24 inclusion are already in place. Although this bill  
25 acknowledges that providing notifications to

2 individuals in the database would impede  
3 investigations, and seeks to avoid this result, the  
4 bill would nevertheless accomplish just that.  
5 Including a qualifying individual in the database is  
6 a lead in an investigation, nothing more, nothing  
7 less. It would make no sense to divulge intelligence  
8 gathered during the course of an ongoing short-time  
9 or long-term investigation. Sending a letter to  
10 anyone in the database would not only alert them that  
11 they are the subject of an investigation, but would  
12 alert their criminal group that we are aware of its  
13 existence and potentially the identities of its  
14 membership. The department shares the goal with the  
15 bill's spon-of the bill's sponsor, which is to  
16 dissuade youth from following the wrong path in life.  
17 This is why the department has both spearheaded and  
18 partnered with stakeholders on a variety of youth  
19 program to achieve just that goal. Programs such as  
20 the Summer Youth Police Academy with over 2,000  
21 participants between the age of 10 and 15, the Youth  
22 Leadership Council aimed at high school students ages  
23 14 to 20 years old. The Law Enforcement Explores  
24 Program with over 2,000 participants between the ages  
25 of 14 and 20, the Summer Youth Employment Program,

2 which provides summer jobs to 300 youth citywide  
3 between the ages of 14 and 24, the My School Has  
4 Rhythm Not Violence Program, which has 720  
5 participants between the ages of 14 and 20 since  
6 2015. The PIL Cops and Kids Sports League, which  
7 provides recreational spaces and summer and after  
8 school programs for youth throughout the city. A  
9 variety of presentations, outreach and forums  
10 through-throughout each year by police officers on  
11 subjects such as bullying, drugs, gang prevention,  
12 Internet safety, personal safety, stranger danger and  
13 teen dating violence to name just a few. The Police  
14 Commissioner for Day essay contest for high school  
15 students, and opening this fall in 2019, our Youth  
16 Community Center located at 127 Pennsylvania Avenue,  
17 which will serve as safe haven for youth between the  
18 ages of 14 and 19 years old, and provide a series of  
19 workshops encompassing educational, social and  
20 recreational resources. This is not an exhausted  
21 list. Utilizing technology such as Criminal Group  
22 Database is vital to keeping the city safe. It helps  
23 the department connect the dots after a crime is  
24 committed, and anticipate retaliatory acts before  
25 they occur. However, in the modern world, technology

2 both-technology works both for and against this.

3 Turing to the other proposals before the committee,

4 the threat that ghost guns and 3D guns pose to our

5 ability to fight crime cannot be overstated. These

6 are guns that do not contain a serial number and

7 cannot be traced. The parts and instructions to make

8 these guns are readily available online and are legal

9 to purchase. Few states have acted-few states have

10 acted to ban the sale and possessions of these

11 dangerous weapons, and the recently introduced

12 federal bill to do so has languished in committee.

13 Intro 1553 would make it a crime to possess the

14 unfinished receiver of a firearm without a serial

15 number. We have all witnessed the steep decline in

16 the number of shootings and murders that occur in the

17 city. These achievements are due in no small part to

18 this state's strict gun laws and law enforcement's

19 ability to trace illegal firearms and legal firearms

20 used for illegal ends. Allowing untraceable firearms

21 and component parts to enter the stream of commerce

22 will promote their use, and at that same time stymy

23 law enforcement's ability to effectively trace such

24 weapons used during the course of a crime. The

25 department support this proposal and looks forward to

2 working with its sponsors to ensure the final version  
3 is legally sound. Intro 1548 would require the NYPD  
4 to report on the number of 3D printed guns and ghost  
5 guns seized. The database supports the goal of  
6 greater transparency and believes this proposal is  
7 consistent with such a goal. I will next—I will turn  
8 next to Intro 1244. The #Me, Too Ella has helped us  
9 all become cognizant of threats to women's ability to  
10 feel safe and feel-and free from violence and  
11 harassment, which may have previously been swept  
12 under the rug. Unfortunately, technology—  
13 technological advances have given sexual predators  
14 another tool to target—[cell phone chiming] Excuse  
15 me. [pause] Unfortunately, technology—technological  
16 advances have given sexual predators another tool to  
17 target unsuspecting victims. The ability of these  
18 nefarious individuals to air-drop pictures or videos  
19 of a sexual nature into innocent people's phones is  
20 the latest technique being employed to intentionally  
21 harass, annoy, alarm and intimidate their victims.  
22 Intro 1244 would make such despicable activity a  
23 crime and provide the database with an enforcement  
24 tool to bring such criminals to justice before they  
25 strike again. The department supports this

2 legislation. Intro 635 would prohibit transporting a  
3 person in custody for the purpose of allowing the  
4 person to be photographed and filmed for the benefit of  
5 the media known as a perp walk. The department  
6 transports individuals in a manner consistent with  
7 applicable law and in the normal course of duty with  
8 the primary being to facilitate a safe transfer.  
9 Many department facilities have one primary avenue of  
10 ingress and egress. Other facilities like our Sex  
11 Crimes facilities are purposely designed to ensure  
12 victims and perpetrators do not use the same entrance  
13 or exit, thereby ensuring that a perpetrator always  
14 uses the same path. The presence of media at these  
15 entry and exit points would effectively subject  
16 officers and detectives to allegations of violating  
17 this bill should it become law if they simply use a  
18 particular door. The department is constrained to  
19 oppose this legislation not based on its intent,  
20 which is consistent with current department  
21 practices, but with its foreseeable impact on routine  
22 prisoner transports, which will need to be altered  
23 based on the presence of a video camera in close-in  
24 close proximity to a police facility over which the  
25 department has no control. Finally, Intro 567 would

2 require the NYPD to establish purchase exchange  
3 locations at a precinct—at a precinct house or some  
4 other public location within the precinct boundaries,  
5 which must be monitored by humans, presumably  
6 officers or a video surveillance. While the  
7 department supports the goal of this legislation, we  
8 oppose this bill as currently written. Many of our  
9 facilities are over 50 years old, and are limited for  
10 space. The department must balance this limited  
11 space with the operational needs of a police  
12 facility, which includes the safe movement and intake  
13 of prisoners, the need to protect the identity of  
14 and-and interview crime victims and witnesses, the  
15 ability to allow complainants to file reports, the  
16 ability of members of the public who require police  
17 services to request such services, and the need to  
18 turn out police officers to patrol our streets, and  
19 we appreciate need for a safe environment within  
20 which to conduct commercial transactions. We would  
21 support an educational campaign aimed at creating  
22 public awareness with respect to this type—to these  
23 type of locations where these transactions could take  
24 place, but as drafted, this bill would not be  
25 operationally feasible for the department. Thank you

2 for the opportunity to speak about these important  
3 issues and we look forward to answering any questions  
4 you may have

5 CHAIRPERSON RICHARDS: Thank you, Oleg  
6 and I want to recognize my colleagues. We're joined  
7 by Powers, Brannan, Rodriguez, Borelli and Miller,  
8 and I'm going to go first Council Member Borelli who  
9 has a statement and then I will go to Council Member  
10 Miller for a statement as well.

11 COUNCIL MEMBER BORELLI: Thank you, Mr.  
12 Chair, and thank you for co-sponsoring Intro-Intro  
13 1244. Now, just a brief note. Council Member Powers  
14 advised me not to do this, but I'm going to do it  
15 anyway, and I'm just going to start AirDropping a  
16 little note to several people in this room with  
17 services that they did, but there's seven of you now  
18 within a range of my AirDrop that have your settings  
19 on to the point where you can accept and see any  
20 images that I send you. Don't-don't get too excited.  
21 It's only a cover sheet of today's hearing. The  
22 problem is that this is not being use to send City  
23 Council cover sheets. Often times this is being done  
24 on subways, in trains, in airplanes and restaurants  
25 to send nude and harassing images that some of us,

2 namely me, I prefer would not see or my wife sees or  
3 my children sees, and up until this point, there is  
4 no effective crime charge people with this—with-with  
5 this—what we all can define as a crime, but there is  
6 no actual statutory prohibition against this. So,  
7 this bill is important because it will set up a way  
8 that law enforcement can actually enforce the kinds  
9 of quality of life harassment, and offensive  
10 behaviors that we all too often see. In my day you  
11 had to have really fast running shoes if you wanted  
12 to be pervert, but now unfortunately through social  
13 media and through phones and through technology it's  
14 much easier. So, I'm glad the Council is addressing  
15 this, and thank you very much, Chair for co-  
16 sponsoring and hearing the bill.

17 CHAIRPERSON RICHARDS: Thank you. We'll  
18 go to Council Member Miller.

19 COUNCIL MEMBER MILLER: Okay.

20 CHAIRPERSON RICHARDS: Well, I'd love to  
21 get your picture, by the way. Thank you.

22 COUNCIL MEMBER MILLER: Thank you, Chair  
23 Richards. New York City is a national leader in gun  
24 violence prevention, and the City Council has been at  
25 the forefront of such efforts, locally partnership

2 with the Mayor's Office to Prevent Gun Violence, and  
3 Community groups such as those that make up the  
4 Crisis Management System, and the Violence  
5 Interrupters. The city will surrender its leadership  
6 role—will not surrender its leadership role on the  
7 issues—on these issues, and through legislation that  
8 will be heard today we are taking proactive steps to  
9 prevent potential for violence for violence and  
10 resulting of the use of ghost guns. Ghost guns and  
11 its 3D-printed guns, can be purchased or their  
12 designs downloaded without background checks or  
13 unregistered, and virtually untraceable to law  
14 enforcement. While Congress and the State  
15 Legislators continue to debate the issues of Ghost--  
16 ghost guns, the City Council will take actions now.  
17 Along with my partner on the legislation Helen  
18 Rosenthal and the leadership of Chair Richard, I'm  
19 sponsoring Intro 1548, which would both for ghost  
20 guns and 3D prints to the NY—cause the NYPD's  
21 quarterly firearm seizure requirements. Currently,  
22 department reporting only includes three types of  
23 firearms classifications: Pistols, rifles and  
24 shotguns. This report must be updated to reflect the  
25 new reality and threat posed by the proliferation of

ghost guns. Additionally, I'm sponsoring 966, which calls for the federal-Reso 866, which calls for the federal-federal government to enact 3D Firearm Prohibition Act to prohibit the sales, acquisition, distribution or import of these firearms parts in kits, the marketing of such kits, and would require homemade firearms to have serial numbers. No one should have unrestricted access to do-it-yourself kits, and equipment designed to make and assemble weapons of war such as rifles semi-automatic handguns, but while we continue to go-to continue to go unregulated in most of America, they will be illegal here in New York City. Recent arrests in New Jersey showed that underground market for these 21<sup>st</sup> Century weapons exists, and they are legal loopholes that have been exposed by fun runners and drug traffickers. It's only a matter of time before such activity comes to our streets here in New York City. We must give law enforcement the tools that they need to arrest gun owners such as those who confiscate their weapons determine the availability of ghost guns here in New York City. Again, I want to thank Chair Richards for his leadership, and Council Member

2 Rosenthal and, of course, Speaker Johnson for getting  
3 this-hearing us today. Thank you, Chair.

4 CHAIRPERSON RICHARDS: Thank you, thank  
5 you and we're going to go to questions.

6 OLEG CHERNYAVSKY: And statements.

7 CHAIRPERSON RICHARDS: Okay. We'll start  
8 Oleg with as of last September around 1,400 of the  
9 17,000 individuals in the criminal group database  
10 were under 18. That's about 8.5%. Has that  
11 percentage significantly since our last hearing, and  
12 are there still-where are-where are-what are the  
13 numbers now? Have the numbers gone up in the  
14 database? Can you just give an overview or where  
15 we're at?

16 OLEG CHERNYAVSKY: Sure. So, in terms of  
17 percentage of individuals, the-the total number of  
18 active gang-criminal group members are just over  
19 18,000, 18,084, the percentage of individuals that  
20 are under 18 is 2.7%.

21 CHAIRPERSON RICHARDS: So, the numbers  
22 have gone up--

23 OLEG CHERNYAVSKY: Well, I--

24 CHAIRPERSON RICHARDS: --in the last  
25 year?

2 OLEG CHERNYAVSKY: I think--

3 CHAIRPERSON RICHARDS: In September's  
4 hearing I think we were at a total of 17,000  
5 individuals. So--

6 OLEG CHERNYAVSKY: Yeah, so, and I think  
7 that it's worth mentioning that if we take a look at--  
8 0--we'll take a snapshot of 2018, and take a look at  
9 how many individuals were added, how many individuals  
10 were removed to give some context. Criminal group  
11 members added in 2018 were 2,475, criminal group  
12 members removed in 2018 was 2,125. So, there was--I  
13 think the difference is about 350 individuals, but it  
14 shows that our review process, and I just want to  
15 highlight that. We have auto triggers and self-  
16 initiated triggers for review. So, the automatic  
17 triggers to review somebody for exclusion for removal  
18 from the database is their 23<sup>rd</sup> Birthday, their 28<sup>th</sup>  
19 Birthday, and every three years. So, for argument's  
20 sake if I put you into the database on January 1st of  
21 2015, you will come up automatically for review on  
22 January 1<sup>st</sup> of 2018 irrespective of your birthday or  
23 not. In addition to that, there is a self-initiated  
24 review process. So, if our criminal group, our gang  
25 experts determine based on their investigations that

2 somebody in the database has left the life, for lack  
3 of a better term, they can initiate their removal  
4 without waiting for the automatic benchmarks of three  
5 years and the birthdays.

6 CHAIRPERSON RICHARDS: Can you break down  
7 the age groups of the individuals, their percentage  
8 age under 18 especially?

9 OLEG CHERNYAVSKY: So, right, so, we  
10 have--

11 CHIEF ESSIG: [off mic] You want me to do  
12 it? (sic)

13 OLEG CHERNYAVSKY: Yeah, sure, go ahead  
14 Chief.

15 CHIEF ESSIG: Thank you. Out of the  
16 18,000 prisoners (sic) 494 are under the age of 18,  
17 266 is 17, 145 are 16, 61 are 15, and 19--

18 CHAIRPERSON RICHARDS: Go up a little  
19 bit. Yes, so under at 17 it's 2 okay--.

20 CHIEF ESSIG: Yeah, it's about 2.7% under  
21 17.

22 CHAIRPERSON RICHARDS: Now, and we need  
23 an example here. (sic)

24 CHIEF ESSIG: Under 18. I'm sorry.

25 CHAIRPERSON RICHARDS: So under 18?

2 CHIEF ESSIG: Is 2.7%.

3 CHAIRPERSON RICHARDS: Right, the  
4 breakdown of the numbers?

5 CHIEF ESSIG: By percentage, 17 are--

6 CHAIRPERSON RICHARDS: [interposing] No,  
7 no, give me, give me exact numbers--

8 CHIEF ESSIG: Our--our numbers--

9 CHAIRPERSON RICHARDS: --how many people  
10 are in there?

11 CHIEF ESSIG: Alright, 17, 266.

12 CHAIRPERSON RICHARDS: Uh-hm.

13 CHIEF ESSIG: 15, 145.

14 CHAIRPERSON RICHARDS: Uh-hm.

15 CHIEF ESSIG: 15, 61.

16 CHAIRPERSON RICHARDS: Uh-hm.

17 CHIEF ESSIG: 14, 19 and 13, 3.

18 CHAIRPERSON RICHARDS: And it seems like  
19 and just give me the breakdowns since the last  
20 hearing. So, September how many--of last year when we  
21 had the original database hearing, what were the  
22 number then?

23 OLEG CHERNYAVSKY: I don't--I mean I think  
24 we entered that into the record. I didn't bring last  
25 year's--

2 CHAIRPERSON RICHARDS: But it seems an  
3 increase of where we were.

4 OLEG CHERNYAVSKY: There—yeah, I think  
5 the—the overall increase is correct. It's a slight  
6 increase of it looks like about 350 individuals. We  
7 removed. Hold on. We removed 2,125, but added 2,475.  
8 So, unless my math is off, I think we have a net gain  
9 of 350.

10 CHAIRPERSON RICHARDS: So, the total  
11 number is how many in the database?

12 OLEG CHERNYAVSKY: Total number in the  
13 database is 18,084.

14 CHAIRPERSON RICHARDS: And how many under  
15 18?

16 OLEG CHERNYAVSKY: Under 18—

17 CHIEF ESSIG: That would be 494.

18 CHAIRPERSON RICHARDS: 494 and can you  
19 just through—so how do you determine which groups to  
20 track? In other words, what makes a group of people  
21 into a gang that the department needs to pay  
22 attention to, and starts entering into the database?

23 CHIEF ESSIG: Most of these gangs they  
24 self-identify, criminal street groups involved in  
25 narcotics, involved in street robberies, involved in

2 violence. So, in any sort of violence. Some of them  
3 are involved in frauds, credit card frauds. They  
4 self-identify as a gang. So whether you're dealing  
5 narcotics or a local gang that's identified by  
6 territory that's how we identify them.

7 CHAIRPERSON RICHARDS: Right, and so you  
8 posit each and every person in this database as a  
9 gang member? Can you say on the record that every  
10 person entered into this database are you confident  
11 that each and every one of them are are--

12 OLEG CHERNYAVSKY: [interposing] Yes.  
13 So, I mean I think that's what the safeguards are  
14 there for, right? So, if we have to remove close to  
15 2,200 just, over 2,100 in a year, it show that we're  
16 actively looking at it. Now the criteria and--and how  
17 does somebody come in, right? You need to be  
18 recommended. So you need to show certain criteria,  
19 right and then the--with the presence of that criteria  
20 you can--you can be recommended by a street cop,  
21 right. You could be recommended by a field  
22 intelligence officer that has an expertise in--in  
23 gangs, or you could be--you could be recommended by a  
24 Gang Unit investigator. Once you're recommended,  
25 there is still a review process. You have to make

2 sure the criteria that are being met. Otherwise, the  
3 system won't even allow you to enter the person into  
4 the database, and then you need—it needs to be  
5 approved, the recommendation needs to be approved by  
6 the gang captain of a particular borough who has an  
7 even heightened—he's the executive of the borough in  
8 gang activity. So, those are the benchmarks that you  
9 need to accomplish to really get in, and then you  
10 start—there are other benchmarks that gets you out.

11 CHAIRPERSON RICHARDS: So, give me—give  
12 me—just give me an example of what criteria looks  
13 like.

14 OLEG CHERNYAVSKY: Okay, yeah things like  
15 voluntary admission during the course of an  
16 investigation to independent law enforcement sources  
17 determine that you are in a gang. This is during the  
18 course of their investigation. It's not somebody  
19 merely in the street that are saying I know he or  
20 she's a gang member. You have things like—and the—I  
21 mean those are some of the on social media indicators  
22 indicating membership. You have other things that  
23 that those are criteria that as long as you have one  
24 of those, you can get recommended. Then there is  
25 another way to go through it, which is if you have

2 two of—whether it's a known gang related documents,  
3 association with group members, social media accounts  
4 with group members, scars with tattoos, you know,  
5 with gang colors, gang signs. So, it's the presence  
6 of multiple of those factors plus the recommendation  
7 of the gang investigative expert plus the approval of  
8 a gang—a gang expert executive.

9 CHAIRPERSON RICHARDS: And we actually  
10 pulled the numbers. So, it looks like 1,400 minors  
11 were in the database last year. So, it seems like  
12 you've made some progress in decreasing the numbers.  
13 Is there are specific targeted, targeted initiative  
14 to ensure teens are being taken out of the database  
15 since you went from 1,700 to 494 it looks like?

16 OLEG CHERNYAVSKY: Yeah, I mean I'll say  
17 absolutely we wanted--

18 CHAIRPERSON RICHARDS: [interposing] Then  
19 why did you--?

20 OLEG CHERNYAVSKY: --to take a—I really  
21 didn't draw the comparison--

22 CHAIRPERSON RICHARDS: Okay.

23 OLEG CHERNYAVSKY: --so I don't want to—I  
24 don't want to say that, but I—I support the numbers  
25 that you've--

2 CHAIRPERSON RICHARDS: Right.

3 OLEG CHERNYAVSKY: --put forward as ones  
4 that--

5 CHAIRPERSON RICHARDS: [interposing] We  
6 pull them from the records.

7 OLEG CHERNYAVSKY: Yes.

8 CHAIRPERSON RICHARDS: So, so the point is  
9 you pulled over 2,000 individuals in a--a little bit.  
10 I guess edging towards a year. Tell me about why  
11 those individuals, and I guess you can't go into  
12 specific case, but why--how did you get such a drastic  
13 decrease? Would you say that a lot of them may not  
14 have belonged it-

15 OLEG CHERNYAVSKY: No.

16 CHAIRPERSON RICHARDS: --or what--what led  
17 you to such a steep decline--

18 OLEG CHERNYAVSKY: I--I wouldn't say that  
19 at all so--

20 CHAIRPERSON RICHARDS: --disruption (sic)  
21 so fast?

22 OLEG CHERNYAVSKY: I think what we said  
23 even at the last hearing if my memory serves me right  
24 is we set benchmarks and criteria for removal. A  
25 database that only has us putting people into it and

2 it grows larger and larger, is useless as an  
3 investigative tool. If you have people that are not  
4 long in the gang lifestyle or left for—for any  
5 reason, to have then in the database only convolutes  
6 an investigation. It's—it's—it wouldn't help us. So  
7 the idea is to be vigilant in reviewing who's in  
8 there, be vigilant in establishing strict criteria  
9 for getting entered in the first place so you have a  
10 database that's lean, that you can go to. So, if you  
11 have a gang related shooting, we can take a look and  
12 say okay, we know the shooter is from this gang. Who  
13 else is in that gang? We can see who is the victim.  
14 Is the victim in the gang? Who else is in that gang  
15 that's going to potentially seek retribution against  
16 one of the shooter's gang members or—or—so, that—  
17 that's the usefulness. You're—I mean just to say that  
18 oh, it's gang gun/gang violence, and it's not an  
19 uninvolved civilian, doesn't make us feel better, you  
20 know, going home. We want to stop the violence. The  
21 fact that a gang member is getting killed, that's  
22 still a homicide, that's still a person getting  
23 killed. If we—if we could prevent that, if we could  
24 interdict in the right place, and identify who the  
25 universe of potential victims could be or potential

2 shooters, that's what the gang-Gang Database is or  
3 the criminal group database is all about.

4 CHAIRPERSON RICHARDS: And I guess my  
5 concern is in these that were an association, right  
6 because if you live let's say public housing in New  
7 York City or you come from a specific neighborhood,  
8 you know, you may walk to school with people who are  
9 affiliated, would you be entered into this database?

10 OLEG CHERNYAVSKY: No. So, I-that's--

11 CHAIRPERSON RICHARDS: [interposing] So,  
12 if you--so if you--so if you--so when you say  
13 association, just--just go a little deeper into that  
14 because, you know, I went to Jamaica High School, and  
15 there were a lot of affiliated individuals from my  
16 specific neighborhood. By the grace of God, my  
17 parents were able to--when they saw me going a  
18 different path, you know, moved me out, but what I  
19 have been entered into a database if the guys, if I  
20 walked to school with the guys on my block and came  
21 home and, you know, walked to the bus stop on Jamaica  
22 Avenue with them would I be considered to be put into  
23 this database because I would be considered  
24 affiliated although I'm not necessarily in the gang?

25 OLEG CHERNYAVSKY: No, so and--and the--

2 CHAIRPERSON RICHARDS: And do you—how do  
3 you ensure that doesn't happen as this way?

4 OLEG CHERNYAVSKY: Well, that's—that's—  
5 that's actually that's the criteria, right. So, if  
6 all you have is an affiliation and an association,  
7 that in itself will not get you in the database.  
8 That won't even get you recommended for being put in  
9 the database. So, if all you have is—

10 CHAIRPERSON RICHARDS: [interposing] So,  
11 just—just to stop you. So, you said you have—who  
12 oversees? You have a Gang Unit. So, if they saw me  
13 walking to school with individuals, that person  
14 wouldn't consider me—I'm not saying I'm in the gang,  
15 but I would not be put into this database for that  
16 reason is what you're saying? Or would I have—what—  
17 what—what is the threshold for being put into the  
18 database?

19 OLEG CHERNYAVSKY: So, the threshold is  
20 when you're talking about association with a known  
21 gang, right, that in itself would not get you into  
22 the database. You have to have other factors  
23 present. Let's say you have a gang tattoo. You're—  
24 you're associated plus you have a gang tattoo.

2 CHAIRPERSON RICHARDS: What are the gang  
3 tattoos? Would have to have Crips written on me or--

4 OLEG CHERNYAVSKY: Oh, I-I-mean, look I  
5 think--think we--we would--we would--

6 CHAIRPERSON RICHARDS: [interposing] A  
7 lot of people have tattoos.

8 OLEG CHERNYAVSKY: --we would agree that--  
9 I-I would hope we would agree that--

10 CHAIRPERSON RICHARDS: Okay.

11 OLEG CHERNYAVSKY: --if, you know, we  
12 have a gang unit whose sole purpose is to track gangs  
13 and criminal groups that are terrorizing this city,  
14 and they through their intelligence gathering,  
15 through their investigations, they know what tags or  
16 gang tags are, spray painting on buildings to mark  
17 territory. They know what tats--identifying tattoos  
18 are. I mean that's intelligence that they gather. If  
19 tats--if these tattoos come about, that's intelligence  
20 that's going to lead us to recognize the fact that a  
21 particular gang has a new tattoo. So, I mean these  
22 are all investigative leads that we determine. If  
23 you have a tattoo that says I love mom, I don't  
24 you're--that's going to be a--that's going to enter you  
25 into a database

2 CHAIRPERSON RICHARDS: 99% of individuals  
3 still in this database are black and Latino? I think  
4 that you reported that last year. Can you give me  
5 the percentage?

6 OLEG CHERNYAVSKY: Sure.

7 CHAIRPERSON RICHARDS: And is that still  
8 true today.

9 OLEG CHERNYAVSKY: Here.

10 CHIEF ESSIG: The percentages: American-  
11 Indian, Alaskan Native, there's 4 persons, 0% are-

12 CHAIRPERSON RICHARDS: Say that again  
13 slow. Yeah, you talk fast.

14 CHIEF ESSIG: I'm sorry.

15 CHAIRPERSON RICHARDS: Okay, thank you.

16 CHIEF ESSIG: American Indian is 0%;,  
17 Asian Pacific Islander is .5%; Black 66%, Black  
18 Hispanic, 9.3%; White, 1.1%; White Hispanic, 22.4%.

19 CHAIRPERSON RICHARDS: [pause] So, 66%,  
20 Black, White, 1.1%. So, 98% and a half communities of  
21 color, and we're positive that only--there are only  
22 1.1% white people in gangs in New York City.

23 OLEG CHERNYAVSKY: So, I--I mean I think  
24 that's--that's misleading. So, let me--let's address--  
25 let's address this head on. The NYPD does not

2 control the recruitments for criminal groups. Now,  
3 if the council Member wants to hold a hearing about  
4 diversity in recruitment efforts, you know, in these  
5 groups, we'll be in the audience taking notes, but  
6 realistically, we find these groups as--as the come.  
7 Now if you take a look at traditional organized  
8 crime, right, things that we all watch movies about,  
9 those if you take a look at our--our intel on those  
10 particular groups and organizations, they would be  
11 disproportionately, if not exclusively white, and  
12 don't control their recruitment efforts either.  
13 These are investigative leads. So, the way that a  
14 particular criminal group chooses to do that  
15 recruitment we will take those leads as they come  
16 into us. If we're looking at a particular group and  
17 that group decided to recruit exclusively or  
18 predominately young men of color, that's--our  
19 intelligence or our gathering is going to reflect  
20 that. There's really not much control we have over  
21 that.

22 CHAIRPERSON RICHARDS: But I guess the  
23 concern would be that certain communities are  
24 surveilled more than other communities. So, if  
25 there's a heavy emphasis on black and brown

2 communities getting surveilled we may be at whole  
3 lot. Are the Proud Boys in this Gang Database? Are  
4 they considered a gang?

5 OLEG CHERNYAVSKY: I'll—I can confirm  
6 that for you. I don't—I'm not 100% sure. They very  
7 well may be. I'm not--

8 CHAIRPERSON RICHARDS: For an answer, I  
9 think they're a gang.

10 OLEG CHERNYAVSKY: Well, no they're—I can  
11 double check.

12 CHAIRPERSON RICHARDS: Yes.

13 OLEG CHERNYAVSKY: We—I'm not going to  
14 say yes or no, but I—I—let me double check and I'll  
15 let you know.

16 CHAIRPERSON RICHARDS: So, were white  
17 supremacists to wreak havoc—wreak havoc on our—wreak  
18 havoc on our streets, would they be put in this  
19 database?

20 OLEG CHERNYAVSKY: Sure.

21 CHAIRPERSON RICHARDS: But you're not  
22 positive of this, obviously.

23 OLEG CHERNYAVSKY: I'm—I'm double—I mean  
24 I mean I don't want to—so you—you mentioned the  
25

2 particular group. I-I want to make sure before I  
3 answer under oath that the answer is correct.

4 CHAIRPERSON RICHARDS: [interposing] Did  
5 you-right, so with-so with organized crime units,  
6 prime (sic) people be considered again.

7 OLEG CHERNYAVSKY: So, so that's-they  
8 are. So, here's the difference. Yes, it's a it's a  
9 yes and no, and this is-it's a yes in terms of it's a  
10 criminal group. in terms of inclusion into the local  
11 database, it is a no, and there's a good reason for  
12 that. So, if you take a look at traditional  
13 organized crime, they operate across state and  
14 international borders. Those investigations are  
15 predominantly if not almost exclusively done as part  
16 of the joint venture with the federal government, and  
17 they are stored separately in-in a-in a different  
18 method. The Criminal Group Database, is more a  
19 tracking mechanism for local street groups. Now, to  
20 the extent that it's a White local street group or a  
21 Black and Hispanic local street group, they're going  
22 to find themselves in the Local Street Group Database  
23 because those are almost exclusively NYPD led  
24 investigations. These are NYPD leads. They don't  
25 cross state or international borders. So, that's why

2 if—and that was my earlier point, if what you're  
3 going to do is take a look at for example, you know,  
4 how track these traditional organized groups, what  
5 you're going to find is predominantly, if not  
6 exclusively White.

7 CHAIRPERSON RICHARDS: Okay, the  
8 Organized Crime Database?

9 OLEG CHERNYAVSKY: Yes, there's a—there's  
10 tracking mechanisms for traditional--

11 CHAIRPERSON RICHARDS: It's called the  
12 Organized Crime Database?

13 OLEG CHERNYAVSKY: Well, I didn't—I  
14 didn't name it so I'm sure that it's called, but I  
15 can tell you--

16 CHAIRPERSON RICHARDS: [interposing] And  
17 would they do very similar things? I mean define  
18 what a gang is? Can you define what it—what it  
19 means?

20 OLEG CHERNYAVSKY: [off mic] Do you know  
21 what the difference is?

22 CHIEF ESSIG: [off mic] No, I don't have  
23 anything.

24 CHAIRPERSON RICHARDS: Do we have a  
25 definition of a gang?

2 OLEG CHERNYAVSKY: So, we have a—I mean  
3 we have the —we have the factors that I put on the  
4 record for you. That's what would have somebody  
5 identified as a gang member. So I would say it's a  
6 collection of the same criteria that's—that would you  
7 —that would have a particular group designated as a  
8 gang.

9 CHAIRPERSON RICHARDS: Okay, well I'm  
10 just going to say this, I mean you get my drift that,  
11 you know, if you're—as you said a group of  
12 individuals who seem to be committing fraud I think  
13 you said, and guns and drugs. I mean I don't really  
14 see much daylight between a gang and peopled in the  
15 organized crime necessarily.

16 OLEG CHERNYAVSKY: We don't—we don't--

17 CHAIRPERSON RICHARDS: [interposing] I  
18 think that they're gang members, too.

19 OLEG CHERNYAVSKY: Well, we don't—I just  
20 want to clarify, I—I did not say that there is  
21 daylight. These are groups committing crimes. I'm  
22 just saying the tracking mechanism is different  
23 because the nature of the investigations are  
24 different. One is local and one is done  
25 collaboratively with the federal government because

2 the crime—the crimes of traditional organized crime  
3 are of such a nature that they cross boundaries, and  
4 when you cross boundaries you need to pull in the law  
5 enforcement entities that are on the other side of  
6 that boundary. That that's really the--

7 CHAIRPERSON RICHARDS: [interposing] But  
8 I would also say that there—there investigations in  
9 NYCHA where there's a lot of collaboration with other  
10 entities such as federal feds as well, right.

11 OLEG CHERNYAVSKY: Sure.

12 CHAIRPERSON RICHARDS: You know, in  
13 takedown things. So, I don't, you know, I'm just  
14 trying to understand how these numbers went from 1.1%  
15 White when we know there's a whole—a whole lot more  
16 out there, and the move from that, but, you know,  
17 what I'm getting at is there's a historical  
18 relationship, right and what—I'll key goal is to make  
19 sure that there are innocent young black and men who  
20 are not being dragged into this database especially  
21 teenagers, especially who we should be diverting  
22 services to, and doing everything we can possibly do  
23 to ensure they're being connected to services so,  
24 they're not stigmatized and that if they get in  
25 trouble for a minor crime then their case is—their

2 case is not being padded or they're not being  
3 considered a danger to public safety over something  
4 or a level--

5 OLEG CHERNYAVSKY: [interposing] So--

6 CHAIRPERSON RICHARDS: --being flagged in  
7 that database. Do defense attorneys have access to  
8 this database?

9 OLEG CHERNYAVSKY: No. So--no, they don't,  
10 and to your point, we're in agreement with you. I--I  
11 mean I just want to make sure that you understand  
12 there's not daylight in that respect. I mean our  
13 opposition to the bill is the fact that we are  
14 looking at particular groups, particular individuals  
15 to let somebody know that you're leading an  
16 investigation and here's a mechanism for you to  
17 appeal being the lead in an investigation. That's  
18 just incongruent with the ability for us to  
19 investigate crime. Now to your point of getting  
20 folks, and getting kids on the right path, I listed a  
21 variety, and that's not an exhaustive list of  
22 programs, and you know because you partnered with us  
23 on some of them, programs we do in order to get kids  
24 on the right path, in order to get--to make--to ensure  
25 that they never enter into a criminal group in the

2 first place or at least educate them on the dangers  
3 if—if they're approached by criminal groups trying to  
4 recruit them. So, we're on the same page when it  
5 comes—when it comes to interdicting, and trying to  
6 get kids on the right path, and I think our actions  
7 and our programs reflect that.

8 CHAIRPERSON RICHARDS: Okay, I'm going to  
9 go to my colleagues for questions as soon as I can,  
10 but I do want to know with these 494 individuals in  
11 the current database, what outreach, what services  
12 are you directly connecting them to? So, I heard  
13 Summer Youth, and that's very vague because some of  
14 these individuals may not even be in school. So, you  
15 know, we have programs like the Crisis Management  
16 System. Has there been a strategic effort made to  
17 target these kids, and I don't want a broad  
18 interpretation of--

19 OLEG CHERNYAVSKY: Yeah. No, it's—it's—  
20 I'm—I'm going to be very direct with you. I—I think  
21 that there is an effort made. To the extent that  
22 somebody is a lead, and we cannot—we cannot advertise  
23 that lead, then I would probably say that outside of  
24 a normal outreach and not a specific focused outreach  
25 on the individual, but our broader outreach to the

2 communities then you probably have—that's the—that  
3 would be the limitation on the outreach. If you have  
4 individuals that we deem that, you know, they can  
5 come out of the database or that it would not hamper  
6 an investigation, there may very well be a direct  
7 outreach at the point of them being removed or even  
8 at the point that they would be in there, but again,  
9 that decision is going to be based on, you know, our  
10 review of the situation and whether or not doing so  
11 would compromise a larger investigation.

12 CHAIRPERSON RICHARDS: Right and out of  
13 those 20-over 2,000 people that were removed, did you  
14 send a notification to them that they're removed? Is  
15 there a process for communities or teenagers or their  
16 parents to find out if they're in the database, and  
17 to be removed or to appeal?

18 OLEG CHERNYAVSKY: Well, no. I think that  
19 that's—that's really the point is this is an  
20 investigative lead. We're not going to, you know, we  
21 never advertise to—to those folks that they were a  
22 lead in an investigation, and nor do we in any crime  
23 that we investigate we don't tell somebody that's a  
24 suspect in an investigation, hey, you're a suspect in  
25 an investigation and here's a letter you stopped

2 being a suspect in an investigation today. It's--  
3 that's just not the way investigations are done.

4 CHAIRPERSON RICHARDS: What I wanted to  
5 know? How do I find out if I was in the database?

6 OLEG CHERNYAVSKY: Yeah, I mean--

7 CHAIRPERSON RICHARDS: [interposing] Is  
8 there a process to do that?

9 OLEG CHERNYAVSKY: No, because that's an  
10 investigative lead, and to answer that question would  
11 potentially compromise an investigation.

12 CHAIRPERSON RICHARDS: What if I'm not in  
13 a gang, and I wanted appeal, I believe that you've  
14 entered me into this database because I'm being  
15 stopped on the street more often? You know, are  
16 teenagers targeted more if they're in this database?

17 OLEG CHERNYAVSKY: No, no.

18 CHAIRPERSON RICHARDS: Are they followed,  
19 are they interrogated--

20 OLEG CHERNYAVSKY: No,

21 CHAIRPERSON RICHARDS: --or if there's a  
22 shooting would they--would you show up at their doors?

23 OLEG CHERNYAVSKY: I mean if--I--look, I  
24 can tell you that if you have a shooting, if you have  
25 criminal activity, and it's--they--our intelligence are

2 all investigative leads and lead us to believe that  
3 the shooting was committed by a particular gang and  
4 here is the universe of the gang members we're aware  
5 of, well certainly--maybe they are going to be  
6 approached and spoken to in the context of the  
7 investigation. It won't be in the context of, you  
8 know, we know that you're in a gang. It could be,  
9 you know, if--

10 CHAIRPERSON RICHARDS: [interposing]

11 Would you--but--so, what I'm getting at is parental  
12 notification. Would you notify the parent before you  
13 had that conversation?

14 OLEG CHERNYAVSKY: Well, well, I think--  
15 well, if you're talking--

16 CHAIRPERSON RICHARDS: [interposing]

17 around the--the

18 OLEG CHERNYAVSKY: --if you're talking  
19 about a minor--

20 CHAIRPERSON RICHARDS: Yeah, minors.

21 OLEG CHERNYAVSKY: --I mean that--that's--  
22 interrogating the minor has--has a protocol for--for  
23 interrogating the juvenile, you know. So, those are  
24 the protocols that you find.

2 CHAIRPERSON RICHARDS: [interposing] I'm  
3 sure that that has not always occurred but I don't go  
4 to the incident in Central Park 5, right, to have  
5 this conversation? And I'm not saying that this is  
6 continuing to happen, but we certainly saw that, you  
7 know, in the past. So, are we positive that if these  
8 children are being entered into the data base, and  
9 you want to interrogate them that their parents are  
10 being notified?

11 OLEG CHERNYAVSKY: So, I mean I know  
12 attempts are made to notify the parents. I can get  
13 you—I'll get you the Patrol Guide Procedure related  
14 to interrogation of juveniles, and maybe that will  
15 more comprehensively answer your question.

16 CHAIRPERSON RICHARDS: Right, and I say  
17 that to say--

18 OLEG CHERNYAVSKY: [interposing] But it's  
19 done based on—I wasn't clear. It's done based on the  
20 established state law. There's many strains of case-  
21 many strains of case law that address the exact topic  
22 of juvenile interrogation.

23 CHAIRPERSON RICHARDS: Right.

24

25

2 OLEG CHERNYAVSKY: That's what's  
3 followed, our patrol guide procedure, and our  
4 procedures reflect the evolution of case law. So--

5 CHAIRPERSON RICHARDS: Right, and I'm  
6 just--I'm going to close on this, and I'll come back  
7 around but, you know, I do have concerns with minors  
8 be entered into this database, and no parental  
9 notification obviously, because these are individuals  
10 who possibly can--I'm not saying in all instances be  
11 approached on the street because they would be  
12 flagged as known gang members. So I think there would  
13 be especially for--I'm sure there are sectors that  
14 cover certain communities. If you are flagged in  
15 this database for just being associated or not even  
16 being a gang member, it does intensify and increase  
17 the chances that you will be stopped by an officer.

18 OLEG CHERNYAVSKY: That's--that's not  
19 true. It's--it's--I'm sorry, but that's--I--I need to  
20 correct that.

21 CHAIRPERSON RICHARDS: Right.

22 OLEG CHERNYAVSKY: It's--that's not true.  
23 The fact that you're in the gang database, in a  
24 criminal group database does not--does not meant that  
25 if I see you walking down the street, if a police

2 officer sees you walking down the street, then he  
3 stops you, that's not what it means. It's an  
4 investigative lead. If there's a shooting, and we  
5 know that a particular criminal group did the  
6 shooting or the particular criminal group is going to  
7 be retaliated against as a result of the shooting,  
8 we're going to know the universe of people that we  
9 either (1) need to interview, or (2) need to  
10 intervene and protect.

11 CHAIRPERSON RICHARDS: Right.

12 OLEG CHERNYAVSKY: That--that's--

13 CHAIRPERSON RICHARDS: But--but what my  
14 concern with that, and once again that's good. We're  
15 just making sure that there's parental, you know,  
16 notification if you're going to interrogate.  
17 Alright, I'm going to go to my colleagues Powers and  
18 to Miller. Alright, and we're joined by Council  
19 Member Deutsch.

20 COUNCIL MEMBER POWERS: Thank you and  
21 thank you for the opportunity to ask questions.  
22 Thank you for your testimony. I'm just following up  
23 on some of the questions from the Chair. So, one--one  
24 question I had is as we're talking about enforcement,  
25 is there a way that a patrol officer for instance

2 would know if there's a gang unit who has accessed  
3 this information? Is there a--is there a place where  
4 a patrol officer for instance would have access to  
5 know, to stop--if the concern is around stopping  
6 somebody based on affiliation, is there a--a way that  
7 our mechanism in that effort to be able to have that  
8 information, and--? [background comments] --in terms  
9 of the concern on stops? [background comments]

10 CHIEF ESSIG: Yeah, somebody, somebody at  
11 the precinct has access--

12 COUNCIL MEMBER POWERS: Could access it.

13 CHIEF ESSIG: --but they're not going to  
14 stop somebody just simply because he's in a database.

15 COUNCIL MEMBER POWERS: Okay. [coughs]  
16 The--are there other similar databases where it's an--  
17 it's not about necessarily a crime you committed, but  
18 about an affiliation, organized crime for instance?

19 OLEG CHERNYAVSKY: Yeah. I mean and  
20 that's what we were talking about. They're certainly  
21 tracked. I--I mean I'm thinking domestic violence,  
22 recidivists,

23 COUNCIL MEMBER POWERS: But those are  
24 about you have committed an offense. This one even

2 if someone has a criminal affiliation—has a criminal  
3 background.

4 OLEG CHERNYAVSKY: Not, but that's—that's  
5 an interest—that's an interesting point is, you know,  
6 say for example if you're looking a domestic  
7 violence, and we know that there is a, you know,  
8 there's a significant number of domestic violence  
9 incidents that—where the victim doesn't—doesn't  
10 follow through.

11 COUNCIL MEMBER POWERS: So, if they  
12 don't, if they don't follow through in terms of  
13 personal weighing it like a criminal charging?

14 OLEG CHERNYAVSKY: Right, but we at the  
15 same time know that maybe our Domestic Violence  
16 Officer should do a home visit. You know, it's—it's—  
17 it's a normal occurrence unfortunately for if you  
18 have spouses or domestic partners for—for a situation  
19 to escalated for the police to be called, and then  
20 ultimately the victim doesn't follow through and  
21 wants to drop charges. At the same time if we see a  
22 pattern of such activity, maybe it would be  
23 beneficial for the victim of DV to have a Domestic  
24 Violence Officer visit to make sure he ore she are  
25 issues—are offered services, you know. So there are—

2 there are avenues, you know, there are other examples  
3 where--

4 COUNCIL MEMBER POWERS: Is there an  
5 organized crime database?

6 OLEG CHERNYAVSKY: Yeah, it's—we do that  
7 collaboratively with our federal partners just again  
8 based on the nature of those investigations crossing  
9 state and federal lines, crossing state lines and  
10 international lines so--

11 COUNCIL MEMBER POWERS: What in—in terms  
12 federal cooperation? Are there—is this—is  
13 information from the gang database shared with any  
14 federal agencies or federal databases?

15 OLEG CHERNYAVSKY: No, and that's—that's  
16 the point. The NYPD has exclusive access to our own  
17 database. We don't share access to our database with  
18 Immigration or with ICE or—or DAs as you've  
19 mentioned.

20 COUNCIL MEMBER POWERS: And no, no  
21 federal agency has--

22 OLEG CHERNYAVSKY: Nobody has access to  
23 our database other than NYPD.

24 COUNCIL MEMBER POWERS: And I—I assume  
25 that if they had a warrant or something like that or

2 they had an open investigation, they would come to  
3 you and ask you for that information.

4 OLEG CHERNYAVSKY: Right, they can come  
5 based on the warrant. They—the warrant would not  
6 grant them access to the database.

7 COUNCIL MEMBER POWERS: Okay.

8 OLEG CHERNYAVSKY: It would not grant  
9 them access to information.

10 COUNCIL MEMBER POWERS: And on the —just  
11 back to the point around the DV, I would not think  
12 that there is still a difference between affiliation.  
13 I the DV instance you're talking about an incidents  
14 where somebody has done something. I understand that  
15 the spouse may not be or the partner may not be  
16 pursuing a charge, but I think you're still—you're  
17 still addressing a situation based on an event, oh  
18 yeah, sorry. Sorry. Still have the database based on  
19 an event that that happened versus and affiliation.

20 OLEG CHERNYAVSKY: Well, but that's—  
21 that's—that's important. It's—they—the Criminal Group  
22 Database is not based on an affiliation. So, if  
23 we're—if we're drawing the correlation to something  
24 happening then the individuals as I went through the  
25 list of crimes that the individuals that populate our

2 Criminal Group Database are responsible for, to be a  
3 group you need to be engaged in-in criminal activity.

4 COUNCIL MEMBER POWERS: I'm talking about  
5 an individual not a group.

6 OLEG CHERNYAVSKY: Well, but the-it's-  
7 well--

8 COUNCIL MEMBER POWERS: So the  
9 affiliation is then-

10 OLEG CHERNYAVSKY: One individual  
11 standing alone is not a criminal group, right so that  
12 individual would be in connection with others, right.  
13 They have similar, you know, they identify as we are  
14 Group A, we're Gang A, and we have tattoos that have  
15 an A on us. We wear group gang-Group A colors. We  
16 have Group A hand signals. We have commit crimes as  
17 a group, and, you know, we have territorial disputes  
18 this is Group A's territory. So there-there are a  
19 variety of things that lead you there has been  
20 activity, much like, you know, as we highlight DV.  
21 That's one example. I'm just really thinking on the  
22 fly, but that-that was something that popped out.  
23 There's been action. So over here you have a group  
24 has been engaged in the past criminal action or a  
25 current criminal action.

2 COUNCIL MEMBER POWERS: Is the--the--I note  
3 that you had shown some stats on your balance, the  
4 criminal background of 96%--90.6 have been arrested  
5 for at least one felony, 75.6 for at least one index  
6 crime, 50.8% have been arrested for at least one  
7 robbery. The average person has been arrested 11.7  
8 times. Those don't mean that those crimes put you  
9 into the database necessarily. They mean that you're  
10 just calculating the outreach here--

11 OLEG CHERNYAVSKY: Right.

12 COUNCIL MEMBER POWERS: --of people in  
13 it. Is that correct?

14 OLEG CHERNYAVSKY: Right.

15 COUNCIL MEMBER POWERS: And they're  
16 individuals I--I presume who have none of the above?

17 OLEG CHERNYAVSKY: You.

18 CHIEF ESSIG: Yes, we have for less than  
19 2% of less than--

20 COUNCIL MEMBER POWERS: [interposing] And  
21 that's great to have--

22 CHIEF ESSIG: No arrests.

23 COUNCIL MEMBER POWERS: Okay. The--I mean  
24 I--I can accept a lot of what you're saying around the  
25 open investigation and the need for the agency to be

2 able to do its work, and to both be preventative, but  
3 also be able to—in—in case of an incident to be able  
4 to understand the dynamics in terms of the gain, and  
5 understanding the—how to—how to proceed with an  
6 investigation. I think that the concern that the  
7 Chair has raised is who's in it? We've had this  
8 conversation in past hearing as well. Who's in it,  
9 and obviously as I understand it, I said this to the  
10 concerns that informing somebody then it may  
11 compromise an open investigation or other actions  
12 that the agency has, but at the same time  
13 understanding the way somebody gets into it. I think  
14 that my feeling is when you're talking about  
15 affiliation, that is obviously way more discretion—  
16 there's a more discretion involved in that than some  
17 of—some of the other databases you're talking about.

18 OLEG CHERNYAVSKY: Yeah, just—just to—  
19 just to highlight. I'll fill in and that's I—I keep  
20 repeating this because I think it's an important  
21 point to highlight because we—we keep focusing on  
22 affiliation as being some sort of an automatic  
23 trigger to get into—into the database. It is not.  
24 Mere affiliation will not even get you recommended  
25 for inclusion into the database let alone get you

2 entered into the cluster housing. You wouldn't even  
3 be recommended. If you were hanging out, as the  
4 Chair mentioned, if he's hanging out with a couple of  
5 people that happen to be in the gang, is he  
6 affiliated and now in the Gang Database? No, he's-  
7 he's not. He wouldn't even be recommended for  
8 inclusion in the-in the Criminal Group Database.

9 COUNCIL MEMBER POWERS: And just remind  
10 me one more time what then would be the criteria for-  
11 for inclusion?

12 OLEG CHERNYAVSKY: So, you have, you  
13 know, and I-I know that the Chair found it hard to  
14 believe the last time we had this hearing, but a  
15 significant, yeah, a significant number of the folks  
16 self= self identify, self admit. I mean that's not an  
17 uncommon. That is a very common occurrence, you know,  
18 because that is something that I-I would assume that  
19 gives them stature, you know, so they-they're  
20 actually proud of their involvement and they make  
21 that admission. So, an admission during the course  
22 of an investigation by law enforcement if we have not  
23 one but two independent law enforcement sources  
24 saying this person is in a gang. So, it's not only  
25 one investigator, but -but two, two law enforcement

2 sources making that determination. Social media  
3 indicators indicating membership. That would get one  
4 of those would get in, right. So, that's the high  
5 bar. The other option is a combination of the  
6 following which could be, you know, gang related  
7 documents, association with a criminal group and not  
8 standing alone, but with other factors, social media  
9 and association with groups including pictures, scars  
10 of tattoos associated with a group colors and  
11 gestures reflecting, you know, association with a  
12 group, and it's not one of those things being  
13 present, it's a combination of those things being  
14 present will only get you to the point of being  
15 recommended. It will not get you automatic entry.  
16 There is no automatic entry. There is--there are  
17 these triggers that will get you recommended by not a  
18 mere police officer on the street, by--but by a  
19 detective or a field intelligence sergeant that has  
20 expertise in gang activity will-- They will  
21 recommend you based on a combination of these factors  
22 and then an executive in--in the gang unit, the  
23 captain of a particular borough would then have to  
24 review that recommendation and evaluate it for  
25 inclusion. Again, our goal is to keep that database

2 as lean as possible. Because an over-populated  
3 database is a useless investigative tool.

4 COUNCIL MEMBER POWERS: Okay, I  
5 appreciate that, and just a final question on this  
6 topic and I have one more after that is the-the self-  
7 admission. What is that? What is the mechanism if I  
8 want to self-identify I should say with a particular  
9 gang?

10 CHIEF ESSIG: If somebody was arrested  
11 and they're the precinct, then they're going to be  
12 debriefed on crimes in the area, they would self  
13 admit, I'm a Blood, I'm a Crip, et cetera, et cetera.  
14 That's a self-admission.

15 COUNCIL MEMBER POWERS: Okay, thank you.  
16 Just switching topics to a different bill, which came  
17 up earlier Council Member Borelli's legislation  
18 around the AirDrop, and I will confirm I did tell him  
19 they're in people's phones. The-it made me check my  
20 own settings, but you're-you're supportive of that  
21 legislation based on the category of picture that's  
22 being or information that's being sent. Is there a  
23 more-are you-are you supportive of a more expansive  
24 effort to-I mean there's all privacy concerns. I

2 meant there's two concerns. One is, you know, over  
3 regulating--

4 OLEG CHERNYAVSKY: Uh-hm.

5 COUNCIL MEMBER POWERS: --here, but also  
6 the concern is that there's a concern about people  
7 invading other people's personal privacy using  
8 technology that's now available. Is that concern for  
9 the NYPD go further than the specific category that  
10 Council Member Borelli's bill is discussing?

11 OLEG CHERNYAVSKY: So, I mean I think we--  
12 we need to be balanced here. I think we would all  
13 agree that, you know, there are implications that we--  
14 we need to withstand legal scrutiny in order for  
15 bills such as this to be able to pass. In a  
16 situation of an AirDrop when you confine it to  
17 intimate image, you know, you have defined, easily  
18 defined an identifiable subject matter, and if you  
19 send it with the intent to harass, annoy, alarm  
20 another individual who's an unwilling recipient, you  
21 can pretty accurately identify that. Of course as  
22 law enforcement we need to still develop the intent  
23 of actor, and we need to develop who was the actual  
24 sender, right. So, those are challenges, but, you  
25 know, that's something we're going to work through as

2 we work through in every investigation. I think when  
3 we talk about a course of conduct sending somebody  
4 messages with intent to harass or annoy or alarm  
5 them, that then rise to the level of intimate images,  
6 a pattern of conduct would currently fall under the  
7 aggravated harassment statute in the Penal Law. I  
8 think the question you're asking is do you want to  
9 have a one text trigger--

10 COUNCIL MEMBER POWERS: Yes.

11 OLEG CHERNYAVSKY: That's--

12 COUNCIL MEMBER POWERS: I mean that would  
13 seem unenforceable to me for what it's worth, but I  
14 don't know.(sic)

15 OLEG CHERNYAVSKY: [interposing] So I  
16 mean I think it's--I think--

17 COUNCIL MEMBER POWERS: I would love to  
18 enforce.

19 OLEG CHERNYAVSKY: Right, but there--I  
20 mean these are difficult things to enforce but it's  
21 not--I don't think it's insurmountable, and having a  
22 tool for somebody that's legitimately victimized  
23 versus having not tool at all, we'll--we'll choose the  
24 option of having a tool, and we'll work with our DA

2 partners to try to get a prosecution on it and  
3 prevention. (sic)

4 COUNCIL MEMBER POWERS: Okay, thank you  
5 that testimony, and taking time to answer questions.  
6 Thank you, Chair for offering me the opportunity.  
7 Thanks.

8 CHAIRPERSON RICHARDS: Thank you, Council  
9 Member Powers. Let's go onto Council Member Miller.

10 COUNCIL MEMBER MILLER: Thank you, Mr.  
11 Chair.

12 OLEG CHERNYAVSKY: Good morning.

13 COUNCIL MEMBER MILLER: Good morning. Okay  
14 before we—we address the—the legislation, let me  
15 just—if—if someone, and we're talking affiliations  
16 and associations, if there was an ongoing  
17 investigation and you happen to be walking to school  
18 with someone involved in that investigation, if you  
19 happen to play some ball in the afternoon beyond  
20 that, does that then trigger a concern beyond the  
21 normal—the normal criteria because that you are  
22 having relations, ongoing relationships with others  
23 involved in the investigation?

24 OLEG CHERNYAVSKY: No.

2 COUNCIL MEMBER MILLER: That-that was a  
3 pretty emphatic no.

4 OLEG CHERNYAVSKY: That's a-it's-it's as  
5 clear-cut as it can be. That's-the criteria is build  
6 around not capturing that individual.

7 COUNCIL MEMBER MILLER: Okay because in  
8 the license they have of a member, you know, it comes  
9 becomes involved with a bunch of folks that just  
10 holistically within there, right, throughout the  
11 community. If-how long has this database been  
12 existence? [background comments]

13 OLEG CHERNYAVSKY: Yeah, can I  
14 [background comments/pause] Yeah. I mean I know it  
15 was revised and seriously overhauled in '14 at the  
16 beginning of this Administration where it's-it's a  
17 lot smaller than what it used to be, but it-it  
18 wasn't--

19 COUNCIL MEMBER MILLER: So--

20 OLEG CHERNYAVSKY: --the prior version  
21 was a red.

22 COUNCIL MEMBER MILLER: [interposing] As-  
23 as we go back to that data, too, and look what that  
24 universe looked like then does it look the same as it  
25 does now?

2 OLEG CHERNYAVSKY: No, because I-I think  
3 the-I-I think the danger, you know, the learning  
4 lesson was is that, and I think, look, I think  
5 realistically we-we can say the same thing about  
6 street stops, right? If you go back a decade you had  
7 680,000 and you took this broad approach right, and  
8 what it, you know, versus now you have under 12,000  
9 stops--

10 COUNCIL MEMBER MILLER: [interposing] Okay  
11 I don't need a course in-in directions. (sic)

12 OLEG CHERNYAVSKY: No, no, this is what  
13 I'm saying is-

14 COUNCIL MEMBER MILLER: That wasn't  
15 question I asked. I wasn't look for the entire  
16 universe. I was looking for the demographics within  
17 the universe. It would look significantly different  
18 from when they look now.

19 OLEG CHERNYAVSKY: I-I don't know, to  
20 answer that, but I-I-I-I no, I mean I-I do--

21 COUNCIL MEMBER MILLER: [interposing] So,  
22 it's been around for a little while, you know--

23 OLEG CHERNYAVSKY: I don't think it would  
24 be different.

25 COUNCIL MEMBER MILLER: -the gangs--

2 OLEG CHERNYAVSKY: --I don't--

3 COUNCIL MEMBER MILLER: --and--and I-I-  
4 trust me.

5 OLEG CHERNYAVSKY: I don't think it would  
6 be, but I'm agreeing with you in the sense that I  
7 don't think it would be significantly different.

8 COUNCIL MEMBER MILLER: To go back 10  
9 years, the communities that were being impacted by  
10 gang proliferation throughout the city if you go back  
11 20 years, the--the impact that those gangs had on  
12 those communities I would even submit what we see now  
13 has not even begun to touch the surface of what we've  
14 seen then. I am--the question in it is best practice,  
15 why don't we see those--why aren't those gangs no  
16 longer active or represented here if they're not  
17 active. I don't believe that they are in the  
18 communities that were represented in years past. What  
19 was done then to eliminate that? Are we using those  
20 best practices to address that, or are we just--

21 OLEG CHERNYAVSKY: I mean are you--?

22 COUNCIL MEMBER MILLER: --this is the  
23 sense?

24 CHIEF ESSIG: Well, you're talking about  
25 the gangs in general, right, how we're lessening

2 them? I think you just look-look at the number of  
3 homicides and shootings. We've gone through 5,200 to  
4 just under-under 800. So, a lot of these shootings  
5 are gang related. So, we are having a significant  
6 impact on the gangs from what we had years and years  
7 ago.

8 COUNCIL MEMBER MILLER: Are we seeing the  
9 same gangs that we saw 10 years ago, 15 years ago?

10 CHIEF ESSIG: No.

11 COUNCIL MEMBER MILLER: I know you had  
12 smaller crews and stuff like that now--

13 CHIEF ESSIG: Yes.

14 COUNCIL MEMBER MILLER: --but locations,  
15 demographics. Here clearly 98% are-are Black and  
16 Hispanic, and that wasn't the case 10 years ago or 10  
17 years. In fact, I think we can all agree that that  
18 that wasn't the case and the impact that they had on  
19 communities certainly hasn't then risen to that level  
20 that it was back then. I'm merely saying that if  
21 they don't exist, that's a great thing. What as the  
22 best practices that we can use to make sure that  
23 we're addressing that in these communities that-that-  
24 -that they're impacting now?

2 OLEG CHERNYAVSKY: I mean I—I think if I  
3 understand your question and I think I do, I think  
4 the—the answer is the precision policing. You know,  
5 when we focus on the small number of the crime  
6 drivers that are driving crime, you know, they, you  
7 know, we—we—we make sure that you—you have—we focus  
8 our resources rather than these broad approaches, and  
9 they have caught up other groups or other  
10 individuals, and we focus on the few that we know are  
11 driving our crime numbers. When you see that  
12 happening, when you see our resources focused on the  
13 locations where the crime is happening, you know, you  
14 see less crime starting to happen when that—when—when  
15 that's the result of this, and then, you know, and I  
16 know I mentioned this this in my opening statement  
17 which is neighborhood policing. I mean it's going  
18 into those same neighborhoods after we've addressed,  
19 you know, specific individuals from Precision  
20 Policing going into that community and—and with our  
21 NCO, with our scepter cops, and actually we build in  
22 trust, rebuilding trust, you know, developing that  
23 one-on-one relationship where the community knows the  
24 cop and the cop knows the community.

2 COUNCIL MEMBER MILLER: Okay, so-so  
3 clearly this predated community policing, but I don't  
4 want to languish on that too much. How early has the  
5 department observed 3Ds and-and ghost guns entering  
6 into the cities? [background comments] When-when-  
7 when-when did that get laid out if at all?

8 OLEG CHERNYAVSKY: I know, when did they  
9 start entering the city? When-

10 CHIEF ESSIG: I just think the last two  
11 years.

12 OLEG CHERNYAVSKY: Yes, I mean we-we're  
13 taking a look at-what we did was we took a look at  
14 the last three years in terms of numbers. We didn't  
15 go back further. The number-so I think it's  
16 important to highlight the numbers aren't really  
17 drastic in terms of recoveries of 3D guns or recovery  
18 of ghost guns, but-but that-that's actually a good  
19 thing, and-and I'll tell you why this is a good  
20 thing. You know, what--we always seem to find  
21 ourselves reacting, right. What you're doing wit  
22 this legislation is you're being proactive. What  
23 we're seeing happening on the west coast that's going  
24 to wind up moving its way here, you're not waiting  
25 until it gets here, you're actually addressing it

2 before it gets here, and these receivers that are  
3 untraceable that, you know, you can basically build  
4 your own gun, you have somebody with a level of  
5 expertise that goes on the Internet, gets  
6 instructions, buys a component part that they can buy  
7 on the Internet or buy somewhere else. Before you  
8 know it, they're building, 200, 300, 400 guns, giving  
9 it out to some of the criminal groups that are now  
10 using untraceable weapons. What you're with this  
11 legislation is you're getting way ahead of the curve  
12 before it becomes an epidemic in the city , and  
13 you're basically saying, look, if you have that  
14 untraceable component part, even before you build it  
15 into a lethal weapon, we're going to make that an  
16 unclassified misdemeanor. We're going to give the  
17 police a tool to be able to seize it, to-to arrest  
18 somebody for-for-for having it, and that's-that's a  
19 good thing.

20 COUNCIL MEMBER MILLER: Is there a way to  
21 determine whether or not one of these was used in a  
22 shooting incident. [background comments]

23 CHIEF ESSIG: We enforce this.

24 OLEG CHERNYAVSKY: Yeah it would-

2 CHIEF ESSIG: It would be a ballistics  
3 match. So, if one of those guns was involved in a  
4 shooting, we would get them. Bullistics would send  
5 it to our lab, and we count the Ballistics and the  
6 recovered firearm.

7 COUNCIL MEMBER MILLER: So, you need the  
8 recovered firearms.

9 CHIEF ESSIG: Absolutely.

10 COUNCIL MEMBER MILLER: Absolutely yes.

11 OLEG CHERNYAVSKY: So, outside of that  
12 there's no way to really determine if or how many—if  
13 you haven't recovered the firearm as a result of the  
14 incident, then there's no way to determine whether or  
15 not specifically a ghost guns or 3D was used in a  
16 shooting incident. So, to this point, it can't be  
17 documented. Is that accurate.

18 COUNCIL MEMBER MILLER: So, to the point  
19 of your bill?

20 OLEG CHERNYAVSKY: To—to this point that  
21 if-if-of all the shootings that have occurred, if you  
22 don't have and actual 3D or ghost guns to match it up  
23 with, you cannot determine whether or not they were  
24 actually involved in the shooting or not?

25 OLEG CHERNYAVSKY: So, yeah.

2 CHIEF ESSIG: [off mic] So, yeah we-[on  
3 mic] we need the firearm to match up to the bullets.

4 COUNCIL MEMBER MILLER: Have there been  
5 any seizures?

6 CHIEF ESSIG: Yes. So, in the last three  
7 years--

8 COUNCIL MEMBER MILLER: Uh-hm.

9 CHIEF ESSIG: --three years ago stating  
10 from 7-2017 we had 32 seizures. In 2018 we had 14  
11 and in 2019, 21.

12 COUNCIL MEMBER MILLER: Were they  
13 multiple seizures or--

14 OLEG CHERNYAVSKY: Uh, I--

15 COUNCIL MEMBER MILLER: --just  
16 individual?

17 CHIEF ESSIG: I think there was a few  
18 multiples, but we could get that information how many  
19 seized back to you. Most of them like my previous  
20 job was in Gun Violence where we did the firearms and  
21 firearms tracking, and we're seeing these guns coming  
22 from Nevada and California, pieces like that. So,  
23 it-it would be really important in our firearms,  
24 investigation or firearms trafficking investigations  
25 to stop this because we can't track the source dates,

2 we can't track who manufactured them or who sold  
3 these guns. So, this is-

4 COUNCIL MEMBER MILLER: So, I have other  
5 questions, but it, but it seems like that the  
6 database is supportive. So, I'll just ask do you  
7 think that as currently constituted that this  
8 legislation is going to be helpful? Do you see  
9 anything that could be added to this that would give  
10 you the tools and resources to-to address what we  
11 anticipate as a potential problem?

12 OLEG CHERNYAVSKY: Yeah, I think --

13 COUNCIL MEMBER MILLER: So give us some  
14 information.

15 OLEG CHERNYAVSKY: Yeah, I think we're  
16 going to-we'll work together, of course with central  
17 staff, and-and on figuring out the right language  
18 because, you know, we have federal statutes, state  
19 statutes, all of that in play. So, we are supportive  
20 unquestionably of the legislation and we're going to  
21 work together with you to make sure that it  
22 withstands legal requirements to make sure that it's,  
23 you know, that we could actually use it and the  
24 statute doesn't get stricken down. We want to have  
25 this tool.

2 COUNCIL MEMBER MILLER: Have you noticed  
3 in those arrests or seizures a-that they occurred in  
4 a particular demographic part of town, age  
5 demographic or whatever.

6 OLEG CHERNYAVSKY: Or where they go?

7 COUNCIL MEMBER MILLER: This is random.

8 OLEG CHERNYAVSKY: I, you know, I'll get  
9 you the number. We-we took—we kind of ran the totals  
10 of what we took in in those three years, but let me  
11 see if I can break it down by precinct and, you know,  
12 maybe that will give you some insight.

13 COUNCIL MEMBER MILLER: Okay, thank you.  
14 Thank you very much. Mr. Chair, thank you.

15 CHAIRPERSON RICHARDS: Thank you,  
16 alrighty, back to the database again for a few more  
17 questions. So, you, you said in your testimony you  
18 stated 90.-90.6% of the individuals I the database  
19 have been arrested. How many convictions.

20 OLEG CHERNYAVSKY: I don't have the  
21 conviction numbers on it.

22 COUNCIL MEMBER MILLER: So, you'll get  
23 that back to the committee?

24 OLEG CHERNYAVSKY: I will see if we can  
25 access that. That—those are VA numbers.

2 CHAIRPERSON RICHARDS: Okay.

3 OLEG CHERNYAVSKY: So, I'll—I'll see if  
4 we can—what we could get on that.

5 CHAIRPERSON RICHARDS: Yeah, yeah and  
6 then how many individuals in the database have a  
7 felony conviction?

8 OLEG CHERNYAVSKY: Okay.

9 CHAIRPERSON RICHARDS: Alright, so if we  
10 can get those numbers. So, you'll get those numbers  
11 back.

12 OLEG CHERNYAVSKY: I'll—I'll see if we  
13 can get them. I just qualify it by these are defense  
14 attorney numbers, and Court Administration numbers.

15 CHAIRPERSON RICHARDS: Okay.

16 OLEG CHERNYAVSKY: So, to the extent that  
17 we can get it, I'll—I'll do my best.

18 CHAIRPERSON RICHARDS: I sure you get the  
19 numbers.

20 OLEG CHERNYAVSKY: They might.

21 CHAIRPERSON RICHARDS: You work with them  
22 right. [laugh]

23 OLEG CHERNYAVSKY: I work with them.

24 CHAIRPERSON RICHARDS: Right.

25

2 OLEG CHERNYAVSKY: I work—I work with  
3 you, too. [laughs]

4 CHAIRPERSON RICHARDS: [laughs] Isn't it  
5 true that officers of detectives—so you spoke of  
6 self-admitting of being in a gang. So, just run me  
7 through that. So, like you're in an interrogation  
8 room, and you're being interrogate—interrogated, and  
9 just voluntarily are like I'm Blood, by the way.  
10 People do that? [laughs]

11 OLEG CHERNYAVSKY: Yeah. So they—like you  
12 were surprised the last time a year ago we were  
13 before you, but as I said, look for a lot of—for a  
14 lot of folks who are selective about who's in—who's  
15 in the database, and I've highlighted all the  
16 criteria, but for the folks that are in it, there's a  
17 lot of folks that are proud members of criminal  
18 groups. That's a status symbol for them to identify  
19 and to admit yes, this is who I am. They're posting  
20 it on their social media accounts. They're—it—that—  
21 it's not a far fetched thing. I know you found it  
22 hard to believe a year ago.

23 CHAIRPERSON RICHARDS: Yes, I do.

24

25

2 OLEG CHERNYAVSKY: It sounds like you  
3 find it hard to believe still, but that's—that's the  
4 truth of the matter.

5 CHAIRPERSON RICHARDS: But, I would also  
6 say that perhaps in some interrogations, and maybe  
7 I'm not aware of—obviously, not aware of what goes on  
8 in every interrogation that, you know, detectives  
9 could give leading questions, right, like so you're a  
10 Crip, right? And I would assume that those  
11 individuals or maybe in some cases may respond, No,  
12 I'm not a Crip. I could be a blood. So, I guess my  
13 concern is, you know, during an interrogation where  
14 techniques are being used, are there lead questions  
15 that would--?

16 OLEG CHERNYAVSKY: I mean we follow—we  
17 follow the law when it comes to interrogations. I  
18 mean that's been long established, you know, through  
19 case law. If—we don't follow the law, the  
20 statements get suppressed. So, it doesn't benefit  
21 anybody by us asking inappropriate questions that  
22 will lead to inadmissible evidence.

23 CHAIRPERSON RICHARDS: Right, and do you  
24 believe that notifying teen-agars could serve as a  
25 deterrent? And I'll—I'll just speak for myself. You

2 know, if my mom got a notification I was in a gang, I  
3 probably would be more scared of my mom than you.  
4 [laughter] But do you think this could serve as a—as  
5 a deterrent in some cases? And then, you know, we  
6 spoke of direct outreach, and—and if there's no plan,  
7 that's okay. I think that's the point of having this  
8 hearing, you know, could there be if you have 496  
9 individuals and you stick 4-94 in a database, you  
10 know, you have Cure Violence groups.

11 OLEG CHERNYAVSKY: Uh-hm.

12 CHAIRPERSON RICHARDS: Could we do a  
13 better job at connecting the Cure Violence groups  
14 with these teen-agers or people who are not even  
15 teen-agers who may be in a database? Not notifying  
16 them, but technically there are ways still to go  
17 around that to ensure that perhaps their information  
18 gets to a crisis management system through some of  
19 the local precincts or whatever to ensure that they  
20 are being connected to services, which then can  
21 ensure that we're putting these young people on a  
22 path to success.

23 OLEG CHERNYAVSKY: Yeah, I mean I think,  
24 and I sand this in the testimony in the prepared  
25 statement, and I'll say it to you as well, I—to the

2 extent that it does not jeopardize an investigation.  
3 You're not going to see us opposed to getting kids  
4 back on the right track. We—a lot of our programs  
5 are aimed at getting them on the right track before  
6 they get on the wrong track. Some of them are aimed  
7 at getting them on the right track even if they took  
8 the wrong track. So, I just—I think the issue here  
9 is sending our notifications and alerting individuals  
10 whether they be third parties or otherwise that  
11 somebody is an investigative lead.

12 CHAIRPERSON RICHARDS: [interposing] I'm  
13 not saying you have to do that. (sic)

14 OLEG CHERNYAVSKY: I know, I know, but  
15 I'm—but when you talk about the universe of programs  
16 that are out there, I think we're open to programs to  
17 the extent that they don't compromise investigations.

18 CHAIRPERSON RICHARDS: Right, and I think  
19 you have youth officers in most precincts, right?

20 OLEG CHERNYAVSKY: Uh-hm.

21 CHAIRPERSON RICHARDS: So, perhaps  
22 strategically working with a youth officer to say  
23 hey, John Doe at Andrew Jackson is in this gang.  
24 Perhaps, you know, mention it. I don't know if there  
25 could be coordination with say a guidance counselor,

2 a social worker or, you know, some of the crisis  
3 management organizations to flag those things and  
4 say, Hey, you may want to have a conversation with  
5 these individuals about services and other things. I  
6 want to move from that and just lastly ask just a few  
7 more questions. One more on this. You know, there  
8 have been calls to eliminate the Gang Database, and,  
9 you know, one of the things I want to know is  
10 couldn't you do investigations without a database,  
11 and then with—if we were to eliminate these things,  
12 would this preclude you from being able to still have  
13 investigations and still carry on the work that  
14 you're doing now minus having a database?

15 OLEG CHERNYAVSKY: But, you know, it's—  
16 you—when you--

17 CHAIRPERSON RICHARDS: [interposing] And  
18 there are other cities that have eliminated it,  
19 right?

20 OLEG CHERNYAVSKY: Right, but there's—the  
21 idea is why—why would you not take advantage of  
22 technology that's out there that could help you more  
23 precisely target the individuals that are driving  
24 your crime, that are enabling you to connect the dots  
25 to see who's responsible for crime, enabling you to

2 connect the dots to see who can possibly be the  
3 recipient of because this gang shot at this gang.  
4 So, now we know there's going to be retribution to-to  
5 make that more difficult, to create, to set up index  
6 cards, you know, would be the equivalent of let's not  
7 use a cell phone and let's yell across the courtyard  
8 at each other through our windows or communicate that  
9 way. Why would you do that? You know, there's--  
10 there's a more efficient way to leverage technology  
11 to more effectively drive down crime, and we've done  
12 that and I-and, you know, I know that--that you're--  
13 you're supportive of that. When we see arrests down  
14 140,000 from five years ago in a given year, when we  
15 some--see criminal courts summonses down in the high  
16 70s, 78%, street stops from 680,000 to 112,000, the  
17 jail population below 9,000. I mean these are all  
18 things that are not done by accident. We're focusing  
19 on the drivers of crime, but in order to focus on  
20 them effectively, we need to leverage the technology  
21 that's out there now. It-it just makes no sense to  
22 have us use antiquated techniques or to hamstring the  
23 Police Department, and leave dangerous folks out  
24 there for any longer than they need to be out there  
25 to victimize somebody else.

2 CHAIRPERSON RICHARDS: Have we seen  
3 increases in crimes—in crime where we've—where  
4 they've eliminated the database?

5 OLEG CHERNYAVSKY: I haven't--

6 CHAIRPERSON RICHARDS: Maybe with other  
7 cities?

8 OLEG CHERNYAVSKY: I mean I haven't  
9 studied, you know, cities that eliminated the  
10 database, but realistically, you know, those cities—  
11 every city is unique, every city has their unique  
12 needs. I mean we have our needs as the most densely  
13 populated city in the country. You know, we have  
14 millions of people in a relatively small area. We  
15 need to keep everybody safe, and we are not—we're not  
16 supportive of eliminating the necessary tools to do  
17 that.

18 CHAIRPERSON RICHARDS: And I think that  
19 technology would be there whether you had a database  
20 or not, but I think the concern is that there could  
21 be in a sense people labeled in this database, and  
22 although I'm, you know, I'm hearing you, you're  
23 saying that other individuals don't have access to  
24 this database, I want to believe it, but there's--

2 OLEG CHERNYAVSKY: I want you to believe  
3 it.

4 CHAIRPERSON RICHARDS: --but there is  
5 historical [laughs], you know, relationship that for  
6 instance, you know, DOI releases a report yesterday  
7 on biased crimes and in that report, you know, we--you  
8 have not substantiated one, not like one, but biased  
9 labeling by police officers or individuals. You have  
10 not substantiated one biased complaint ever. So, I  
11 want to work with you, but it just becomes hard to  
12 believe that there are not innocent people entangled  
13 in this database and should not be in there, and be  
14 labeled gang members, and then not only that, I  
15 still--my opinion is that you could still do the work  
16 that you're doing without have a database and still  
17 be successful. I don't see how that minimizes your  
18 investi--investigatory tools to actually--

19 OLEG CHERNYAVSKY: [interposing] I think  
20 that's--

21 CHAIRPERSON RICHARDS: --work on, you  
22 know, individuals who may be associated or may not be  
23 associated, but I think our concern is that there may  
24 be teenagers, there may be individuals who are  
25 labeled as gang members, which does in a--although

2 you're saying it doesn't, you know, I don't want to  
3 say you're not saying it matter-

4 OLEG CHERNYAVSKY: [interposing] Oh, it  
5 probably matters.

6 CHAIRPERSON RICHARDS: -- but they're  
7 going to have line on the streets.

8 OLEG CHERNYAVSKY: It certainly matters--

9 CHAIRPERSON RICHARDS: Yeah.

10 OLEG CHERNYAVSKY: --but what it doesn't  
11 do is have the collateral consequences that you see  
12 in other states. You're not getting penalty  
13 enhancements or sentence enhancements. You're not  
14 being criminalized for solely being in the database.  
15 You're not being stopped in the street because you're  
16 in the database solely for that reason. You're not--  
17 you're not--your ability to get an apartment, your  
18 ability to enter school, nobody is informed of this.  
19 It is a law enforcement tool that we use to address  
20 criminal activity by criminal groups.

21 CHAIRPERSON RICHARDS: Okay, I'm going to  
22 move from that. I have a difference of opinion,  
23 though we won't resolve it right now. Let's go to  
24 staged perp walks for a second. Does the database  
25 have a policy on notifying the media when suspects

2 are being transported from precincts to Central  
3 Booking?

4 OLEG CHERNYAVSKY: No. So, the  
5 department, the department complies with, and there  
6 was a case law I believe in the early 2000s a federal  
7 case that spoke directly to staged perp walks, and  
8 that's not something that we do. Our—our problem—I  
9 guess our concern with the bill as written is that it  
10 would actually hamstring our ability to do routine  
11 work. Now, of course, I—I know what the follow-up  
12 question is going to be. We have a carve-out for you  
13 to routinely transport individuals outside of  
14 precincts, but, you know, the—it's—staging a—let's—  
15 I'll use the terminology staging the perp walk is—is  
16 really an amorphous term right. So, if we have for  
17 example, you know, our hearings on sex crimes in the  
18 Unit in Sex Crimes Investigations, one of the things  
19 that was raised, one of the recommendations of DOI's  
20 report, and something that Council Member Rosenthal  
21 has and yourself have—have—have held our feet to the  
22 fire on is to get the sex crimes facilities as  
23 recommended up and running. Well, the recommendation  
24 is to have separate entrances for victims and  
25 separate entrances for perpetrators. So, by default

2 what we're having is in a high profile sex crime, the  
3 media would know that the individual, the perpetrator  
4 is going to be coming in and out of a particular  
5 doorway. There could be a gaggle of media there, a  
6 lot of cameras there. We need to set them off on the  
7 side to be able to use the door. So, if we put a  
8 barricade there, are we now walking out a perpetrator  
9 or bringing them into a facility. We staged arguably  
10 media by clearing the doorway, by telling them stand  
11 on this side. Are we staging a perp walk? It opens  
12 up police officers and detectives to the potential of  
13 violating the Local Law for simply doing their job.  
14 Now, in terms of, you know, and there's other  
15 facilities that are older facilities that really only  
16 have—I mentioned sex crimes, but they only have one  
17 means—one means of ingress and egress. So, you'll  
18 have the same situation happening there, but no, we—  
19 we don't stage the movement of a prisoner for the  
20 media, but passing a law that would effectively I--I  
21 guess prohibit that would place officers in a  
22 situation where they could potentially be violating  
23 the law by simply doing their job.

24

25

2 CHAIRPERSON RICHARDS: I think what we're  
3 getting at is just ensuring that, you know, innocent  
4 until proven guilty.

5 OLEG CHERNYAVSKY: Sure, then but that's  
6 what--that's what I ready said.

7 CHAIRPERSON RICHARDS: [interposing] And  
8 I think the reception unfortunately, I mean I just go  
9 back to the Innocent Five how they were walked and  
10 paraded out of this precinct, right, innocently, and  
11 unfortunately, they were guilty before they even got  
12 a fair shake, you know, you know, in the public's  
13 eyes because and I--you know, because of the media  
14 technically as well. And so, you're saying you don't  
15 call media at all?

16 OLEG CHERNYAVSKY: [ice clinking] Sorry.

17 CHAIRPERSON RICHARDS: Are you cooling  
18 off? Is it hot in here for you now?

19 OLEG CHERNYAVSKY: We're talking a little  
20 here.

21 CHAIRPERSON RICHARDS: Right. [laughter]  
22 So, NYPD has a policy or is there no policy on  
23 calling the media?

24 OLEG CHERNYAVSKY: I mean I don't--I'm not  
25 aware of aware of a written policy, but after we're

2 done with the hearing I'll call the CPI and see if  
3 they have something in writing that I can share with  
4 you.

5 CHAIRPERSON RICHARDS: Okay, and does  
6 staging a--the media taking photos of the suspect in  
7 handcuffs is there any law enforcement on desiccatory  
8 purpose?

9 OLE CHERNYAVSKY: It doesn't serve a law  
10 enforcement or an investigatory purpose that I can  
11 think of, but I mean I think-- Can you--can you repeat  
12 the question one time?

13 CHAIRPERSON RICHARDS: I'll be--I'll make  
14 it easy. Can you support a bill that would say you  
15 can't call the media?

16 OLEG CHERNYAVSKY: Would I support the  
17 bill--I--

18 CHAIRPERSON RICHARDS: [interposing]  
19 Support a bill that says you cannot call the media?

20 OLEG CHERNYAVSKY: I mean I--I think you  
21 need to balance what--what you're saying with the fact  
22 that we routinely call the media when we have a  
23 wanted outstanding suspect that we through our  
24 partners in the media we alert the--we alert the  
25 public that this person is wanted. They put out

2 through whether it's New York 1 or-or any of the  
3 other media outlets they put out, they're kind enough  
4 to put out--

5 CHAIRPERSON RICHARDS: [interposing] And  
6 that's fine. I'm not-I'm not getting at that.  
7 That's fine. We don't want to go with those three.  
8 (sic)

9 OLEG CHERNYAVSKY: [interposing] It  
10 stems, but ultimately what stems from that is-is when  
11 you actually take this dangerous criminal off the  
12 street--

13 CHAIRPERSON RICHARDS: [interposing]  
14 Alleged and then the alleged--

15 OLEG CHERNYAVSKY: Alleged dangerous  
16 criminal off the street--

17 CHAIRPERSON RICHARDS: Uh-hm.

18 OLEG CHERNYAVSKY: --the public already  
19 saw the wanted poster. They know this person is  
20 wanted. The media provides them with some sort of  
21 closure. So, is there going to be a question about  
22 has there been an apprehension made? Are we now then  
23 not going to be allowed to close the loop? They put  
24 out the wanted poster. They want to know--

2 CHAIRPERSON RICHARDS: [interposing] No,  
3 but I think you can still put a statement out.  
4 That's fine that, you know, this individual is in  
5 custody.

6 OLEG CHERNYAVSKY: I'll—I'll take a look  
7 at the bill as it's written, and I'll make an  
8 assessment there. I just wouldn't want to speculate.

9 CHAIRPERSON RICHARDS: Alrighty. Just on  
10 Internet purchase and exchange locations, do you have  
11 receive complaints of robberies or other crimes that  
12 are arise from trans—transactions that people  
13 negotiate online using sites like Craig's List, and  
14 what stakes or what steps do the department takes to  
15 make those transactions safer?

16 OLEG CHERNYAVSKY: So, we ran some  
17 numbers and I—I don't—I know you mentioned a  
18 particular website. This is not—I'm—I'm—these  
19 numbers are not now in--

20 CHAIRPERSON RICHARDS: Take me through an  
21 example.

22 OLEG CHERNYAVSKY: Yeah, but it's not  
23 married to crimes that happened as a result of  
24 purchases on that website. This is overall reported  
25 robberies is it? Yeah.

2 CHIEF ESSIG: Yes. Just for the last  
3 three years the social media exchanged robberies, in  
4 2017 you had 203. In 2018, 213 and year-to-day 2019,  
5 81. Equivalent about 2017 it's about 1.4% of our  
6 robberies; '18 about 1.6% and this year 1.4% of our  
7 robberies are the social media type.

8 CHAIRPERSON RICHARDS: And are there any  
9 things—can you just speak to any initiatives or  
10 things you're doing just to keep these transactions  
11 as safe as possible? I don't mean you to be able to  
12 resolve all of them, but--

13 CHIEF ESSIG: Well—

14 CHAIRPERSON RICHARDS: --in, you know—

15 CHIEF ESSIG: Well, the investigation  
16 into the social media are handled by our Robbery  
17 squads, which are experts on robberies. They're not  
18 hold-held by the local squads. They have more of an  
19 expertise at robbery investigations going in the  
20 social media and seeing, right. Getting websites and  
21 speaking to people. So, every one of our Social  
22 media robberies is handled by our Robbery Squad not  
23 the local squad, and they also look to see if there's  
24 any connections and patterns, anything around  
25 citywide.

2 CHAIRPERSON RICHARDS: Alrighty, well  
3 some—Alrighty, I think that is it for me.  
4 [background comments/pause] Okay, awesome. So,  
5 we're going to let you go. Let me just ask on the  
6 Airdropping. What role do private companies like  
7 Apple play during investigations? Is there more that  
8 you think they should be doing around the Airdrop  
9 options? Are you responsive to concerns?

10 [background comments/pause]

11 CHIEF ESSIG: Yeah, when—when we subpoena  
12 Apple and most of the social media companies, they're  
13 very receptive as well we have the proper--

14 CHAIRPERSON RICHARDS: [interposing] And  
15 when someone Airdrops a photo, does the sender's  
16 phone leave any kind of digital footprint that can be  
17 tracked? [background comment]

18 OLEG CHERNYAVSKY: Let—let me—let me look  
19 into it. I just—I don't want to, yeah, I don't want  
20 to say something that's—

21 CHAIRPERSON RICHARDS: [interposing] And  
22 have you given any suggestions to Apple on this at  
23 all? Has there been any conversation? Not just  
24 Apple but any of these companies that have these sort  
25 of Airdrop options?

2 OLEG CHERNYAVSKY: I mean we have—we—we  
3 do have a partnership. I know there—there are  
4 certain issues that clearly, you know, we don't—we—we  
5 wouldn't agree on, but there's other—we routinely  
6 partner with technology companies on solving these  
7 crimes. I'll find out—

8 CHAIRPERSON RICHARDS: [interposing]  
9 Right.

10 OLEG CHERNYAVSKY: --for you if there has  
11 been any conversation about, you know, whether them  
12 updating their software to making, you know, to put  
13 safeguards in place or whether there are unique  
14 identifiers in an Airdrop.

15 CHAIRPERSON RICHARDS: One friendly  
16 suggestion could just be make sure the person's cell  
17 phone number shows up when you Airdrop the photos. So  
18 that may be—that's gong to be something we recommend  
19 for them, but it would be helpful from a law  
20 enforcement standpoint if you did that as well. I  
21 think that would resolve a lot of issues if people  
22 knew that their phone numbers would directly show up  
23 after Airdropping the photo.

24 OLEG CHERNYAVSKY: Sure.

2 CHAIRPERSON RICHARDS: Alright. I want  
3 to thank you. We have a lot more work to do to  
4 ensure that we have a just—do you have a question?

5 COUNCIL MEMBER: [off mic] No.

6 CHAIRPERSON RICHARDS: Oh, okay—a more  
7 just city. You got my points on the Gang Database. I  
8 still think we have a lot of work to do to ensure  
9 that we're not interacting especially young people  
10 who we should really ensure has the services to pull  
11 them out of gangs. We still have a lot more work. We  
12 see this as the beginning of the conversation on the  
13 database. We look forward to working with you  
14 further on it. Keep driving those numbers down.  
15 Thank you.

16 OLEG CHERNYAVSKY: Thank you.

17 [background comments/laughter/pause]

18 CHAIRPERSON RICHARDS: Alrighty, panel  
19 Marie Delus, Moms Demand Action for Gun Sense in  
20 America; Natalie Eisner, Moms Demand Action; Lilianna  
21 Zaragoza, NAACP Legal Defense Fund; Center for  
22 Constitutional Rights, Bronx Defenders and Fazia  
23 Siddiqui, Girls for Gender Equity. We'll now put  
24 three minutes on the clock for each person.

25 [background comments/pause] Thank you. I'm going to

2 let--Council Member Rosenthal is going to read a  
3 statement first, and then we're going to go each  
4 panel. Each panelist will have three minutes for  
5 their--to read their testimony. Council Member  
6 Rosenthal.

7 COUNCIL MEMBER ROSENTHAL: Thank you so  
8 much, Chair Richards. Thank you for holding this  
9 important hearing. I appreciate hearing from the  
10 NYPD. I really appreciate Moms Demand Action.  
11 Because of you and because of your constant  
12 vigilance, we make changes, and that's true for moms.  
13 So, shout out. I'm pleased that my legislation Intro  
14 1553, which prohibits the possession of an unfinished  
15 frame or receiver of a firearm is being heard today.  
16 36,383 people die each year from gun violence,  
17 another 100 or a 120 are injured, and while--sorry.  
18 36,380 people die each year from gun violence.  
19 Another 100,120 are injured. While New York City  
20 stands out for its common sense gun laws and  
21 declining homicide rates, a critical loophole in gun  
22 safety has emerged in the form of untraceable  
23 firearms also known as ghost guns. One common method  
24 of creating a ghost gun is through purchasing an  
25 unfinished receiver, which is essentially 80% of a

2 gun. From there all it takes is a quick trip to the  
3 local hardware store one-minute Google search to find  
4 what you need to complete the firearm. These guns  
5 have no serial numbers making them especially popular  
6 among individuals who are unable to purchase guns  
7 legally. This makes them virtually untraceable by law  
8 enforcement, and allows criminals to bypass  
9 background checks and licensing laws. My legislation  
10 will make it illegal to possess or to dispose of an  
11 unfinished frame or receiver in New York City.  
12 Violators will be charged with a misdemeanor  
13 punishable by a maximum fine of \$1,000 or  
14 imprisonment for a year or both. I really want to  
15 thank—sorry—before I say that—California and New  
16 Jersey are currently the only states that regulate  
17 these weapons. New York City has the opportunity to  
18 be at the forefront of this issue and set an  
19 important precedent that other cities and states  
20 should allow. I'm proud to sponsor the legislation  
21 around—along with Council Member Miller, Chair  
22 Richards and the Public Advocate, and I'm very  
23 honored to have the support of Everytown for Gun  
24 Safety and Moms Demand Action, and I am pleased that  
25 the NYPD supports this legislation, and look forward

2 to swiftly passing the law, and look forward to  
3 hearing from you today. Thank you very much.

4 CHAIRPERSON RICHARDS: Thank you, Council  
5 Member Rosenthal. You may begin. State your name for  
6 the record and the organization you belong to. On the  
7 mic there's a button. There you go.

8 NATALIE EISNER: Okay, I'm on. Okay. My  
9 name is Natalie Eisner. I'm representing Moms Demand  
10 Action. Like previously said, there is decrease in  
11 gun violence, but people are still dying in our  
12 streets. One life is too many. Many can agree that  
13 there are a lot of unregistered and illegal guns in  
14 our community, basically in black and brown  
15 communities. Having an unregistered ghost guns and  
16 being able to make it your own at home will only  
17 exacerbate the issue in our community. This is just  
18 another threat in our community. I personally know  
19 how illegal and unregistered guns can impact our  
20 lives. On September 15, 2011, my brother was walking  
21 his girlfriend home where he was shot by two men by  
22 two illegal guns. He was shot 15 times. He did not  
23 survive. There are many children that die in our  
24 streets everyday because of illegal and unregistered  
25 guns. We should not have any more lives they are

2 ghost guns. We should take preventative action. We  
3 should not wait until many more lives and many more  
4 funerals where we say we have to do more. We have to  
5 do more now. Prevent it before it actually happens  
6 to someone you love, your friends and even in your  
7 community. Thank you.

8 CHAIRPERSON RICHARDS: Thank you for your  
9 testimony.

10 MARIE DELUS: Thank you. My name is  
11 Marie Delus. I always like to start with an  
12 introduction. This is my Nephew Pia Portia Paul  
13 (sp?), Jr. He was actually killed on November 11,  
14 2008. He was killed in a Cambia Heights, Queens.  
15 They actually found 10 bullets in the scene. So, he  
16 was shot at 10 times, and 7 of the bullets actually  
17 impacted his body. The one that killed him was the  
18 one that hit his heart, and he was also walking with  
19 a young lady that he just saw that he particularly  
20 liked, and then they were just going into the  
21 McDonald's on the corner of Springfield when the  
22 perpetrator approached him from behind and shot him.  
23 My family, I guess we were fortunate enough to get—we  
24 get what we call justice because the perpetrator was  
25 actually caught, but the perpetrator was caught

2 because of eye witness. They didn't find the gun that  
3 the perpetrator had, and if they find the gun at  
4 least whether it has serial numbers or not at least  
5 we would be able to identify the gun if it impacts  
6 other people, right. If he shoots other people we  
7 could—the gun will have a body. By having ghost guns  
8 without serial number untraceable, that is going to  
9 be nearly impossible. I should also note that I'm a  
10 former Marine even though I'm not a combat vet, but I  
11 am a former Marine of Desert Storm, and I'm also a  
12 sharpshooter. So, I know how to mantle and dismantle  
13 weapons. I've seen these guns. They could print out  
14 every—almost every component except for the pin on  
15 these guns. They could get the actual hardware from  
16 anywhere to build. Eighty percent of the guns could  
17 be built by ghost guns. I am a survivor a fellow  
18 survivor and Natalie is a fellow survivor, and I also  
19 want to say thank you to very much for actually  
20 bringing these bills, and I want to thank Moms Demand  
21 Action for being here, but as a fellow survivor, I  
22 want to say that these gungs are going to make it  
23 more difficult for officers to catch our killers—our  
24 killers out there the killers, and I definitely would  
25 love to endorse Intro 1553, and Intro 1548 to make it

2 safer for us in New York City because they will come.  
3 I know that they're—they—they talked about—the NYPD  
4 talked about they already captured 27—in 2017, 32  
5 ghost guns already here in New York. In 2018, 14.  
6 Some people will say okay 32 to 14 is—is a decline  
7 but then in 2019, we already have 21. It already  
8 started. Now, we really need to do something. I do  
9 not want anyone else to lose family members to gun  
10 violence, and by having these ghost guns actually for  
11 guns it's going to make it more and more difficult to  
12 capture a perpetrator. I was lucky. Natalie, was  
13 your—did they find the killer of your brother?

14 NATALIE EISNER: Only one was caught  
15 because he [bell] it was basically people said it was  
16 him, but there was another person that still wasn't  
17 caught yet.

18 MARIE DELUS: And a lot of our survivors  
19 have the same problem. We have a lot of survivors in  
20 our group who have not been able to go and approach  
21 it. It will make it a lot more difficult to catch  
22 our perpetrators—the perpetrators that kill our  
23 families with these guns. Thank you.

24 CHAIRPERSON RICHARDS: Thank you and I  
25 share a common story with you. My childhood best

2 friend was also murdered. You know, unfortunately,  
3 they never found his killer. We know who it is.  
4 Everybody knows who it is, but no justice.

5 LILIANNA ZARAGOZA: Good morning. Thank  
6 you, Chairperson Richards and Council Members. I'm  
7 actually here today to talk about Intro 2223 on  
8 behalf of the NAACP Legal Defense Fund, the Bronx  
9 Defenders and the Center for Constitutional Rights.  
10 I'm particularly humbled to be here. I actually met  
11 some Moms who Demand Action, and, you know, it's a  
12 coincidence since—since I'm not commenting on that  
13 bill, but the answer to tragedy in black and brown  
14 communities is not over-policing, and perpetuating  
15 pernicious stereotypes of black and brown communities  
16 and youth. As Donovan Richards, the Chairperson  
17 spoke about earlier today, we were here nearly a year  
18 ago, and we talked about these same dangers, and—and  
19 not much has changed. In fact, the Gang Database has  
20 actually, has actually grown, and the NYPD we heard  
21 them earlier today talk about how there are no  
22 collateral consequences to this, but we know that now  
23 it's about 98 almost 99% black and brown. It remains  
24 that way, and the fact that there exists—that there  
25 is an almost exclusively black and brown list, this

2 inherently tells people it—it perpetuates the  
3 stereotype both within NYPD and our community at  
4 large that black and brown youth but also emerging  
5 adults also equally are 25-year-old parents, a 45-  
6 year-old uncle or father—father figure is a criminal,  
7 a gang member or potentially a thug. And, although  
8 the NYPD earlier said that there are on collateral  
9 consequences, this database actually exposes people  
10 to increased surveillance and scrutiny. And even  
11 thought the NYPD testified earlier that they may not  
12 be stopping people because they are simply on the  
13 list, people are almost certainly targeted because of  
14 it, or on high alert for these particular  
15 individuals. So, today although I take—we take no  
16 explicit position on the—on the bill introduced  
17 today, we do think that it is a modest first step.  
18 We appreciate the bravery of addressing this issue,  
19 but we think that it's not only the monitoring of  
20 minors that deeply troubling, it is the racial  
21 imbalance, the race profiling that is equally  
22 troubling, and the vagueness and overbroad contours  
23 of the criteria that the NYPD talked about earlier  
24 today. You know, repeatedly they assured us that  
25 Chairperson Richards you would not be on the list,

2 but last year you we told that you would be if you  
3 simply wore red colors, the you viable data, and  
4 earlier today they talked self admission. That is  
5 certainly a possibility. You know, we'll just accept  
6 that as true, but the—the reality is that individuals  
7 on social media may be taking pictures with their  
8 neighbors. They may be taking pictures with  
9 individuals. They maybe sitting on their stoop, and  
10 it may not simply that walk to the bus that we talked  
11 about earlier, but you cannot help if your brother is  
12 in a gang. What if, you know, you're going to help  
13 the company [bell] that you keep, and the criteria  
14 criminalizes innocent behavior, and it is unchecked?  
15 So, under this bill we do have a concern that even  
16 for the about 8% of individuals or perhaps 2% now  
17 even for them, the NYPD ultimately has the sole  
18 discretion about whether to provide notice, about  
19 whether the exception for an active investigation  
20 should apply without any additional oversight. And in  
21 addition it provides no process or right for appeal.  
22 We think that some of these elements are incredibly  
23 important, we think that the racially  
24 disproportionate impact and the—the complete  
25 discretion run amuck for the NYPD without check is a

2 problem, and for that, we would love to have a  
3 further conversation about what needs to be done in  
4 the future.

5 CHAIRPERSON RICHARDS: Thank you for your  
6 testimony. Thank you.

7 LILIANNA ZARAGOZA: Thank you.

8 FAZIA SIDDIQUI: Good afternoon Chair  
9 Richards and Council Members. My name is Fazia  
10 Siddiqui, and I'm a legal intern for Girls for Gender  
11 Equity. Thanks for holding this important Public  
12 Safety Committee hearing, and giving me the  
13 opportunity to speak today. Chair Richards, I would  
14 like to thank you especially for your proposed bill  
15 demanding NYPD transparency with respect to the so-  
16 called Criminal Groups Database. Thank you for doing  
17 the work to help us move towards a safer and more  
18 accountable New York City. A GGE, we share a common  
19 goal with your initiative to protect young people  
20 from unethical and often unconstitutional race-based  
21 policing. GGE is a Youth Development and advocacy  
22 organization based in New York City committed to the  
23 psychological, physical, social and economic  
24 development of girls. GGE challenges structural  
25 forces including racism, sexism, transphobia,

2 homophobia, and economic inequities, which constricts  
3 the freedom for expression and rights of transgender  
4 and cisgender girls, and women of color. We are  
5 offering testimony today to highlight the  
6 intersections between the NYPD's gang policing  
7 strategies, school policing and the so-called school  
8 decision pipelines. Expanding is helpful, but it  
9 does not fully capture the experience of girls and  
10 non-binary youth of color. We instead use the term  
11 pushout coined by Scholar Monique Moore to  
12 characterize the race of girls and non-binary youth  
13 end leaving school before graduation. When our young  
14 people are arbitrarily added to the NYPD's  
15 surreptitious Gang Database, they are preemptively  
16 fast tracked into entering the juvenile often  
17 illegal. The Gang Database is yet another system put  
18 in place to incarcerate young people for non-violent  
19 crimes under the guise of gang membership. Gang  
20 association by itself is not a crime in New York, but  
21 inclusion in the database is a well known police  
22 tactic used to bolster a misdemeanor charge into a  
23 felony. Chair Richards' proposed bill to create an  
24 appeals process is a crucial first step towards NYPD  
25 accountability. So, I urge Council Members to push

2 this legislation even further by challenging the  
3 criteria the NYPD uses for gang membership  
4 identification in the first place. The process for  
5 designating young people as a so-called identified  
6 gang member relies on information for the school  
7 safety agents and often unidentified outside agency  
8 sources who provides little to no substantive-  
9 substantive proof of actual gang membership. A hunch  
10 based on solely colors, tattoos, scars, and  
11 tangential associations with known gang members  
12 should never be enough to condemn a young person to a  
13 lifetime of NYPD surveillance. Last week the  
14 Department of Education and the NYPD released new  
15 Memorandum of Understanding to address the  
16 problematic presence of school safety agents in  
17 public schools. Per the MOU, NYP-NYPD personnel are  
18 not permitted to interfere with non-criminal  
19 misconduct in schools such as uniform violations,  
20 low-level Marijuana possession or disorderly conduct.  
21 This is a huge win for GGE'w work toward  
22 significantly reducing NYPD's presence in schools,  
23 and before we were discussing they're using Pushout  
24 girls and women of color-color. [bell] [coughs] So,  
25 in short I implore the City Council to take the

2 NYPD's momentum in stride and work towards further  
3 transparency—transparency in NYPD's surveillance and  
4 database building. Thank you again for this  
5 opportunity to speak.

6 CHAIRPERSON RICHARDS: Thank you so much,  
7 and can you just speak to just a few more  
8 recommendations you had on the database on this bill?

9 FAZIA SIDDIQUI: Sure so for example let  
10 me actually turn to the—the particular flaws. Is  
11 that—is that what you'd like to hear about.

12 CHAIRPERSON RICHARDS: Yes, yes. Sure.

13 FAZIA SIDDIQUI: Sure. So, you know, we  
14 really think that obviously it's deeply troubling  
15 that—that minors are on this database. That isn't  
16 going today, you know, even introducing this bill  
17 may—may do little if the NYPD is already starting to  
18 kind of cull their list and remove minors. It is no  
19 less troubling like that there are other individuals  
20 who equally, you know, will—will not be given any  
21 notice, and—and, you know, ironically I think it's  
22 interesting that the NYPD earlier today talks about  
23 the danger of notice but, you know, outside of, you  
24 know, certain investigative tools that they may be  
25 worried about. If people are being chilled from

2 engaging in criminal activity because they know that  
3 they're being surveilled, you know, what-what is the  
4 problem? Isn't that exactly their goal?

5 CHAIRPERSON RICHARDS: Uh-hm.

6 FAZIA SIDDIQUI: So, in terms of having  
7 this process be more transparent for everyone, I  
8 think that it-that that can only be of interest for  
9 everyone, and it would ensure that-that if they do  
10 indeed want this list to be, you know, a few hundred  
11 people, people who they talked about, I think it was  
12 in the hundreds of people who have committed  
13 homicides. For example, you know, if that's the goal  
14 that is-this database is not-is not working toward  
15 that end. You know, I find the-the database to be  
16 inherently problematic even for the minors that this-  
17 that this bill is intended to benefit the notice  
18 requirement. So, the exception for active criminal  
19 investigations, in the context of-of gang policing  
20 and enforcement, you know, this is really  
21 characterized by, you know, the mass raids that-that  
22 earlier today we were talking about-NYPD was about as  
23 being incredibly effective. I'm not sure if that is  
24 actually the case particularly in light of I know  
25 Professor Howell who will be speaking later today

2 issued the Bronx 120 Report in April and, in fact,  
3 there's—there's no requirement that any crime be  
4 committed at all, and within the—the mass legal  
5 indictments that, you know, have been coming down  
6 after for example the Bronx 120, many individuals,  
7 you know, allocated to—to very low level conduct,  
8 perhaps selling Marijuana, right, and so, in terms of  
9 the sweep for the potential, you know, the potentials  
10 for the NYPD to say no we won't give notice even to  
11 minors because there's an active criminal  
12 investigation, you know, is there is there an  
13 investigation six degrees of separation from that  
14 particular minor, right. What does that—what does  
15 that mean? When will the exception apply? It could  
16 swallow the rule of notice in the first place. And  
17 then, you know, even if there is notice, there—that  
18 is complexly within the discretion of the NYPD to,  
19 you know, once—once that notice is given, the burden  
20 is also on the child and the family potentially to  
21 contest this designation. It's unclear, you know,  
22 from the bill and from—from how the NYPD is operating  
23 the secretive Gang Database whether, you know, what  
24 level of information the family would be given.  
25 There's an information like symmetry, right where

2 they wouldn't necessarily even be able to conduct it  
3 even if the individual is not in the database.  
4 Finally, I discussed a little bit earlier about how  
5 there's no, you know, listed process to appeal.  
6 There's no oversight, right. Inherently now in the  
7 Gang Database there's no oversight over the initial  
8 designation. Under this bill there's also no  
9 oversight over the NYPD's internal kind of review of  
10 whether notice should be given or whether the  
11 designation was erroneous. So, I think that that is  
12 one-one big issue, right, the transparency—the  
13 transparency in reporting. So, we—we do appreciate  
14 that, you know, I think it's Subsection D of the  
15 bill, which talks about reporting every year to the  
16 City Council, and then providing certain information  
17 online, but the reality is that that this is really  
18 functioning as black box in so many ways that even,  
19 you know, providing a little bit of due process may  
20 be a hollow victory because it—it just simply might  
21 not be feasible to attack something that you don't  
22 know enough about.

23 CHAIRPERSON RICHARDS: And I think that's  
24 the purpose of--

25 FAZIA SIDDIQUI: Right.

2 CHAIRPERSON RICHARDS: --at least getting  
3 it.

4 FAZIA SIDDIQUI: Right.

5 CHAIRPERSON RICHARDS: It's not been easy  
6 to get there, [laughs] but at least starting to move  
7 it into that direction, and at the end of the day I  
8 would love to see it abolished period--

9 FAZIA SIDDIQUI: And we think--

10 CHAIRPERSON RICHARDS: --but, you know,  
11 we're going to take these steps that we ensure that  
12 there's more transparency as of now because it's  
13 right now, you know, we're just starting to get there  
14 around it, right? I mean you've been doing the work  
15 around it. I commend all the advocates. So, look  
16 forward to working with you further to keep chipping  
17 away at this. Thank you for all you've done. Thank  
18 you all for coming out.

19 FAZIA SIDDIQUI: Thank you.

20 CHAIRPERSON RICHARDS: Thank you, thank  
21 you.

22 CHAIRPERSON RICHARDS: Alrighty, thank  
23 you. Next panel Albert Cahn, Surveillance Tech  
24 Oversight Project; Fidel Gorman, Just USA. I think  
25 that's right. Alright, Yung Mi-Yung-Mi Lee, Brooklyn

2 Defender Services. Alex Watalli, Policing and Social  
3 Justice Project, Brooklyn College. [pause] Alex.

4 ALEX VITALE: Vitale.

5 CHAIRPERSON RICHARDS: Vitale, Vitale,  
6 Alex Vitale. Oh, here you go. Yes, come on down.

7 Alright. Is that four? Okay. [pause] Come on down  
8 Alex. Alrighty, you may begin, Albert.

9 ALBERT CAHN: Good afternoon. My name is  
10 Albert Cahn, and I'm the Executive Director and  
11 Founder of the Surveillance Technology Oversight  
12 Project at the Urban Justice Center. We're a non-  
13 profit advocacy group that fights for New Yorkers'  
14 civil rights and privacy and we really commend Chair  
15 Richards and the Committee for taking these important  
16 steps to protect New York's privacy both through the  
17 reform of the Gang Database and through the measures  
18 to reform so-called perp walks, which allow the NYPD  
19 to really have tremendous power to coerce criminal  
20 suspects who have not been indicted or let alone  
21 convicted of any crime. My remarks are going to be a  
22 shorter excerpt of the longer statement I've  
23 submitted to the record, and with the Gang Database  
24 I—from our perspective as a privacy organization we  
25 see the current Gang Database as nothing less than

2 the continuation of Stop and Frisk. It is digital  
3 Stop and Frisk. It a systematic effort to try to  
4 over-police communities of color that have endured  
5 this sort of mistreatment by law enforcement not for  
6 years but for decades, and the measures we see the  
7 committee reviewing today are important. They're a  
8 crucial first step, but like my colleagues from the  
9 civil rights community we believe that they are only  
10 a first step that further reforms must be include  
11 protections for the adults who wrongly included in  
12 the database. You do not age out of core  
13 constitutional rights. You do not age out of the  
14 need for due process, and the adults who are wrongly  
15 labeled as being affiliated with gangs simply because  
16 of where they live or because of the color of their  
17 skin or the clothes that they're wearing. Those  
18 individuals, those New Yorkers deserve the right to  
19 have their names cleared, and at this moment where we  
20 see the Trump Administration attacking communities—  
21 immigrant communities, using information often from  
22 local and state agencies the need to end this  
23 database or at the very least expand protections to  
24 all New Yorkers is quite crucial. With regards to  
25 process, we view it as completely unconstitutional to

2 have a process by which police officers are able to  
3 tarnish the reputation of New Yorkers who have not  
4 had their day in court. People deserve trial in a  
5 court of law not trial by the court of public  
6 opinion, and we believe it is essential to end this  
7 practice, which we know has been used to attack in  
8 some cases irreparably, the reputations of so many  
9 New Yorkers arrested for crimes they never committed.  
10 This practice has no place in our city, and it must  
11 end, and these measures are crucial, but they deal  
12 with specific silos of privacy concerns, and we at  
13 STOP believe that systemic privacy reforms are  
14 needed, and that's why we would also like to bring  
15 the committee's attention to the POST Act Bill we've  
16 been championing since we were founded, a bill that  
17 provide system privacy reforms against NYPD data  
18 collection surveillance, a bill that would be one of  
19 the weakest police oversight bills on surveillance in  
20 the country, and long overdue, but as with the Gang  
21 Database reforms, it would be an indispensable first  
22 step and at a moment when progressive cities across  
23 the country like Oakland and San Francisco are taking  
24 radical steps, progressive steps, are banning facial  
25 recognition, banning some of these technologies. The

2 POST Act is indispensable because while it doesn't  
3 ban a single tool, while it doesn't stop the NYPD  
4 from conducting surveillance, it creates due process,  
5 it creates standards, it creates privacy protection  
6 and it creates the framework to have further reforms  
7 because as the Gang Database has show us, when we  
8 allow these tools to operate without oversight,  
9 without regulation and without redress, the pattern  
10 of discrimination is quite clear. Thank you very  
11 much.

12 CHAIRPERSON RICHARDS: Thank you so much  
13 for your testimony. [bell]

14 YUNG MI-LEE: Thank you. Good afternoon.  
15 My name is Yung Mi-Lee. I'm a Supervising Attorney at  
16 Brooklyn Defender Services. I want to thank you for  
17 inviting BDS to give testimony. Today, I'd like to  
18 focus my comments on 2223 in relation Gang Database  
19 notifications. My written testimony goes into  
20 greater detail on this and other legislation that's  
21 under consideration today. BDS urges the Council not  
22 to advance this legislation and instead to meet with  
23 advocates and experts who have been working to  
24 address so-called gang enforcement in our city.  
25 Collectively, we have urged the city to abolish the

2 Gang Database, a Criminal Group Database. At a  
3 previous hearing BDS testified before this committee  
4 and we called for an end to profile based policing  
5 and a reallocation of resources towards supporting  
6 rather than profiling marginalized communities. This  
7 bill, which appears to be well intended, with  
8 entrenched gang designations as legitimate, and would  
9 create an extremely limited and possibly ineffectual  
10 process for subgroup of New Yorkers to determine  
11 whether they have been included in this database, and  
12 only then petition to the NYPD to be removed subject  
13 to the complete discretion of the department, which  
14 originally included them. Specifically, the bill  
15 directs the NYPD to notify—to notify only those 17  
16 and under if they have been into the Gang Database,  
17 inexplicably leaving out New Yorkers and other age  
18 groups, and offers the department two broad  
19 exceptions that may completely swallow the new rule.  
20 It creates a very limited mechanism to contest the  
21 gang label, but only for those in this age group who  
22 have already received notice from the NYPD and gives  
23 the department full discretion to reject the petition  
24 with no due process or standards. In short, the bill  
25 allows NYPD to police itself with no other oversight.

2 The mechanism of relief is more limiting than  
3 existing Article 78 challenges, which New Yorkers of  
4 any age may pursue. The significant challenges of  
5 filing and winning an Article 78 are not improved  
6 upon in this legislation. Lastly, this legislation  
7 would establish in law an extremely broad definition  
8 of a gang. It would define gangs as formal or  
9 informal groups of three or more people who commit a  
10 crime and, for example, follow the same clothing  
11 trends. Given the expansiveness of our criminal  
12 legal system, this definition would include nearly  
13 anyone, but we know that predominantly black and  
14 Latino people would be targeted particularly if this  
15 definition is later used in sentencing in sentencing  
16 enhancements—sentencing enhancement legislation or  
17 additions to the Penal Law. We all know that almost  
18 99% based on prior testimony of those in the Gang  
19 Database are black or brown. This legislation would  
20 also require annual reporting of this data. Yet  
21 important questions would—would remain include—  
22 including how does one get entered into the cluster  
23 housing and how does one get out? These federal  
24 agencies including ICE have access to this database.  
25 There was testimony from NYPD earlier today stating

2 that they do—they do not share this information with  
3 law enforcement—with prosecutors, ICE, federal  
4 agencies. However, as a practicing criminal defense  
5 attorney, I have seen this information being shared.  
6 It's in the police reports, and if you are arrested,  
7 and it appears that more than 90% of these people in  
8 the database have been arrested, it's clearly shared  
9 with—with the prosecutors. It's in there. The  
10 prosecutors use it against our clients. I've also  
11 seen it being used against complaining witnesses  
12 because they are sometimes also in the database, and  
13 that works against them. The Gang Databases and  
14 gender mass surveillance, extremely harsh treatment  
15 in the criminal legal system, and ultimately  
16 increased marginal—marginalization, which do not  
17 improve public safety. I was going to talk about the  
18 Bronx 120 Report, but I just heard that Dave Howell  
19 will be testifying. So, I will leave that portion to  
20 her. Thank you very much.

21 CHAIRPERSON RICHARDS: Thank you so much  
22 for your testimony.

23 ALEX VITALE: Good afternoon. My name is  
24 Alex Vitale. I'm a Professor of Sociology. I teach  
25 in sociology and author of those kinds of studies,

2 Department and offer those kinds of studies (sic)  
3 Department at Brooklyn College where I coordinate the  
4 policing and Social Justice Project as well, and  
5 we've played coordinating role on the work on trying  
6 to investigate and critique gang policing in New York  
7 City, and we've been doing that work for the past  
8 three and a half years. I've been working policing  
9 issues for the last 30 years in a variety of  
10 capacities domestically and internationally. Last  
11 year we gathered before this committee to send a  
12 strong message that the NYPD's use of the Gang  
13 Database is deeply problematically-problematic and  
14 needlessly harms those placed on it while undermining  
15 the long-term health and safety of communities. The  
16 NYPD has yet to provide a clear and comprehensive  
17 explanation of who is on this database, why they were  
18 placed there, and what purpose the database serves.  
19 Despite the testimony today, I would argue. Despite  
20 this lack of transparency we have learned many  
21 disturbing things about the database that others have  
22 chronicled and will continue to chronicle during this  
23 hearing. So, I will skip my list for now. The bill  
24 before you today fails to adequately address any of  
25 these problems. While it calls for the possibility

2 of notification involving juveniles, which are told  
3 now make up less than 2% of the database, it leaves  
4 the decision about that at the discretion of the  
5 NYPD, which has made it clear that they view everyone  
6 on the database as there for investigatory reasons,  
7 and therefore, would be eligible for the exclusions  
8 that you have put in the language of the bill. Thus,  
9 making it moot. I appreciate the desire of the  
10 committee members and staff to address some of our  
11 concerns, but this bill does not do that, and  
12 therefore, I cannot support it. A much more  
13 comprehensive approach to the database is needed that  
14 include—that could include eliminating its use and  
15 existence altogether. Several jurisdictions around  
16 the country have ended the use of such databases or  
17 significantly restricted their role, and provided  
18 great due process protections than are contained in  
19 this bill. Before such comprehensive bill could be  
20 produced wherever we need it, a great deal of  
21 additional information about the nature of this, we  
22 have spent the last two years urging the Office of  
23 the Inspector General of the NYPD to undertake such  
24 and investigation, and it is my hope that one is  
25 underway. Similar investigations in other cities

2 have uncovered wildly inaccurate information, racial  
3 bias in the formation of the database, and abusive  
4 and illegal practices based on the information in the  
5 database, and I've provided references to a number of  
6 such reports of abusive gang database practices.  
7 Therefore, I urge the committee to withdraw this  
8 bill, and upon the completion of the OIG  
9 investigation to meet with advocates working on this  
10 issue to develop both a comprehensive response to the  
11 database that builds on best practices nationally,  
12 and an overall re-evaluation of how the city of New  
13 Yorker responds to the very real problems of youth  
14 violence in our communities. We need additional  
15 investment in non-punitive community based  
16 interventions such as Cure Violence initiatives,  
17 family supports, housing stability and high quality  
18 health services including trauma counseling, not more  
19 criminalization of young people. Thank you.

20 CHAIRPERSON RICHARDS: Thank you.

21 FIDEL GUZMAN: Chairman Richards and  
22 member of the New York City Council on Public Safety.  
23 My name is Fidel Guzman. Thank you for the  
24 opportunity to speak to day. I'm here today to  
25 express I'm totally against this bill T2018-2223.

2 Based on my life experience as a former gang member,  
3 I was a member of the Bloods. I live in neighborhood  
4 that's Bloods, Crips, Lion Kings and the Dalios.  
5 There is not a safety problem, everybody. I got  
6 people on my block. Everyone on my block drives,  
7 everyone is working. I'm a native New Yorker from  
8 Harlem now Community Organizer for Just Leadership  
9 USA. I've been working with the Close Rikers Island  
10 Campaign since it first started. A lot of my friends  
11 have been caught up in the Gang Database and the gang  
12 raids. Friend that I grew up. I got 20 years. I  
13 was just 16 years—I was just 16 years old. I was  
14 incarcerated with them. I know that they feel that  
15 society gave up on them. I never met a so-called  
16 criminal. I only met human beings that society gave  
17 up on them before they can expect—expand their full  
18 potential. The Gang Database is a stop and frisk  
19 2.0. It's a sign that the city has given up, but our  
20 community can't give up. We understand young people  
21 need resources especially in a crucial teen and young  
22 adult. Knowing that their brains doesn't fully  
23 develop until 25. When a white kid with resources  
24 get in trouble they are—they are bailed out and  
25 access to therapy. When a Black and Latin kid get in

2 trouble put in the School to Prison Pipeline. That's  
3 now including the database. I understand the  
4 intentions of this bill to limit harm and build  
5 transparency and accountability, but what this lacks,  
6 the impact that we need we—we need—we are encouraging  
7 that if you want to do something, we ask you that you  
8 look at the people that have been the most harm on  
9 the war on gangs that's been targeting and  
10 dehumanizing young people that's black and brown.  
11 Impact the communities is being the right advocates  
12 in the defense organizations. We—we are saying to  
13 eliminate and abolish the Gang Database. This will  
14 allow the NYPD to continue undermining the safety of  
15 our community. To begin with, only kids 18 years old  
16 and younger that are informed that they're in the  
17 database, it's unfair to all people. Then again the  
18 database they have the power to deny notification for  
19 anyone who is in a Gang Database. One thing that I  
20 haven't seen is a major question is about how many  
21 people are in that Gang Database that have jobs,  
22 right. How many people are in there that lost family  
23 or—had family that's incarcerated? A more deep  
24 root asked questions about that, and I want to argue  
25 about the NYPD how they operate in their community

2 policing. If the community policing is actually  
3 stopping in front of or parking in front our  
4 neighborhood, then that is not community policing,  
5 and I also want to put this up in the air. This bill  
6 community platform that does leadership also [bell]  
7 with 50 organizations that went to all five  
8 communities. They asked all five communities what  
9 does safety look like, or what does a healthy  
10 community look like. We also because I work on the  
11 Close Rikers Island Campaign, we know there's going  
12 to be 540 men and guys left over. We have something  
13 really major. We have people who were gang related  
14 former gang members, people from the community  
15 organizations asking real serious questions of people  
16 in the community: What does it look like to have  
17 more investments in the community. As a person who  
18 has really been impacted by, you know, not by the  
19 Gang Database, but what they used to have a gang  
20 book. That has a really intention for us as New York  
21 City to be bold and create what it exact need to be  
22 safety—a safe community, and a safe community doesn't  
23 mean having the police, you know, criminalize or  
24 watch over us. What it really looks like--and this is  
25 a 30-page paper—is more investments in our community,

2 and this is coming from someone who was a former  
3 Blood, and the last thing I really want end this out  
4 as, there's a lot of Bloods and Crips and Lion King  
5 and Padres who are working at non-profits right now  
6 who are starting—who started their businesses, and  
7 also working or going to Wall Street with suits. This  
8 is—I think there's a false idea that the NYPD is  
9 saying that people are not reachable, and I think I  
10 want to really challenge that because the problem  
11 becomes when we start looking at people who are black  
12 and brown or in that they need the right services  
13 that everyone else needs. The basic three pillars to  
14 be successful in life. I put on the table a real  
15 folding (sic) document and they closed on them. So, I  
16 think there's a—I—I have to say that and I know  
17 there's a lot of people that are not here right now  
18 who are, you know, Crips and Bloods because they feel  
19 like this is not the space for them, and I really  
20 just want to encourage them out there to really know  
21 that if we're serious about building our community,  
22 then we have to do it through the deep roots of  
23 what's keeping our community underfunded, over-  
24 incarcerated and over police, and lastly, I want to  
25 end at—I'm sorry it's—you have an individuals that's

2 in front of you that the police talked about like I  
3 was a number that I talked-that they talked about  
4 like I was an animal, and you have someone who is in  
5 front of you who have experience and been through a  
6 lifestyle of being a Blood, growing up in a lifestyle  
7 where all my friends was Blood, and it never just  
8 started just as being Blood. It was just started  
9 from us coming back and forth from school together,  
10 and what happens, the label of gang started existing  
11 when police are criminalizing and stopping us, and  
12 not asking us what is our basic need as human beings  
13 to be successful?

14 CHAIRPERSON RICHARDS: Thank you for your  
15 testimony. An encouraging story. Council Member  
16 Rosenthal, you have a question.

17 COUNCIL MEMBER ROSENTHAL: I do want to  
18 thank everyone here for really powerful testimony.  
19 Basically, I just wanted to ask you specifically  
20 about the bills that I've sponsored, which you-which  
21 Brooklyn Legal Defense's Defender Services is  
22 opposing which is 1553 about the ghost guns.

23 YUNG-MI LEE: Yes.

24 COUNCIL MEMBER ROSENTHAL: I've read your  
25 testimony here, and if you could tell me more about

2 the opposition—if you could tell me more—if you could  
3 explain a little better to me. I mean I've read  
4 prosecution of New Yorkers who might be  
5 unintentionally owning the receivers or rodnicks  
6 (sic) is that—is that super frequent? Is that  
7 something that's happening in communities that we  
8 need to be mindful of or do you think that's  
9 happening in arenas where are going to be vulnerable  
10 to police intrusion?

11 YUNG-MI LEE: I think the concerns is  
12 that many different types of objects can be  
13 criminalized and—and really the focus should be more  
14 on whether it's a true weapon in the sense that it's  
15 operable. So, if there's just a piece of what may be  
16 a weapon or that may be perhaps a component of  
17 weapon, which could an already inoperable antique  
18 gun, and the can be criminalized. So, there's a—  
19 there's a concern that it's overbroad, and we would  
20 urge the Council to focus on also the intent. There  
21 should be the unlawful intent to make a weapon that  
22 can cause physical injury or—or obviously death, but  
23 also on whether it's a real weapon and whether and  
24 whether it is, in fact, operable at that moment where  
25 it can then cause that physical injury.

2 COUNCIL MEMBER ROSENTHAL: It's a  
3 challenging line, right because you could see a home,  
4 and we've heard stories about this. We know that of  
5 instances of this where yes they're inoperable pieces  
6 in one moment, and if you read it I guess in your  
7 home and you hide the other component and parts where  
8 you're building a gun, hypothetically they're not in  
9 use, but I just—I'm trying—I'm really trying to  
10 understand who's owning something that doesn't have a  
11 serial number on it that is something that could be,  
12 you know, in five minutes you could create a gun with  
13 it with a few pieces that you get from the hardware  
14 store what is that object?

15 YUNG-MI LEE: I understand what you're  
16 saying. I think our concern is that there are  
17 components that just because of where that piece  
18 belongs and the entire weapon that's built that's  
19 just do not have a serial number. Not every  
20 component. The serial number is in one place on one  
21 complete weapon, but there might be components that  
22 don't necessarily have that. So, our concern is that  
23 it's too—its overbroad, it's too encompassing. It  
24 can capture a lot of innocent possession of and in  
25 the Penal Law there is a defense where if you are in

2 possession of an antique gun even that that's a  
3 difference. So, that's our concern that it might  
4 capture too many people that merely innocent  
5 possession of certain objects might be criminalized.

6 COUNCIL MEMBER ROSENTHAL: I need to  
7 follow up with you--

8 YUNG-MI LEE: Sure.

9 COUNCIL MEMBER ROSENTHAL: --on this. I  
10 mean I understand the words you're saying--

11 YUNG-MI LEE: Yes.

12 COUNCIL MEMBER ROSENTHAL: --but I think  
13 what I'd like to see are examples of those  
14 situations, who we're talking about that's in those  
15 situations, and whether or not they have the ability  
16 to explain away what they have.

17 YUNG-MI LEE: Sure.

18 COUNCIL MEMBER ROSENTHAL: I mean  
19 obviously we don't want to over-criminalize people,  
20 but I don't understand this application in this  
21 particular case where there's so much damage done by  
22 people right now having unsterilized guns and being  
23 able to get away with having those parts, and in  
24 their home possession of it with the intent, as you  
25 say, making an operable gun for the purpose of

2 killing people in the instances that we heard about.

3 So, I really need to understand this further. I want

4 to understand it further, but I look forward to

5 meeting with you about it.

6 YUNG-MI LEE: Okay.

7 CHAIRPERSON RICHARDS: Thank you, thank

8 you all for your testimony, and we're going to go to

9 the next panel Professor Dave Howell, CUNY School of

10 Law; Victor Dempsey, Legal Aid Society; Talon Murphy,

11 Legal Aid Society; Craig Lewis, Legal Aid Society.

12 I'm going to really ask everybody because out of this

13 room by 1:00 to really try to adhere to the three

14 minutes.

15 CHAIRPERSON RICHARDS: [background

16 comments] Okay, okay. I guess I could bring up--

17 [background comments/pause] Okay. You may begin.

18 Press your button.

19 DAVE HOWELL: I'm Dave Howell. Thank you

20 so much for taking on this incredibly important issue

21 for being brave enough to know and to recognize that

22 the label gang, the title Precision Policing does not

23 allow the NYPD to move forward with impunity playing

24 on our fears on our trust. As you mentioned earlier,

25 other cities have abolished the Gang Database.

2 You're probably asking why the crime go down, and I  
3 was like oh, I should look that up, but I think we  
4 would have heard if-if crime had died off of it. I  
5 will check into that. New York City, New York State  
6 itself in 2010 prohibited the NYPD from keeping a  
7 database of everyone they stopped or Stopped and  
8 Frisked in the absence of a criminal summons for  
9 arrest. That's New York Penal Law New York Penal Law  
10 140.50 (4). There's precedence for preventing  
11 electronic database maintenance of the NYPD of people  
12 who are not accused of criminality or not in that  
13 situation accused of criminality. Gang Databases  
14 that have not yet been abolished show signs of the  
15 same kinds of weakness we see in New York City Gang  
16 Databases. A California audit, Chicago Audit and the  
17 International report on the London Gang Database all  
18 of these show that many, many of the people in the  
19 Gang Databases do not have criminal histories, and  
20 they're overwhelmingly Black or Brown. New York City  
21 takes the cake with 99% Black and Latino. I would  
22 urge that we await the Inspector General Eure's  
23 Report. One of my colleagues said, you know, we're  
24 trying fix this. It's like doing surgery before you  
25 the MRI results. So, while I appreciate the—the

2 steps towards trying to know the rate the harm to the  
3 Gang Database, I with my colleagues would propose  
4 waiting and getting the Inspector General's Report.  
5 We're letting them know we'd like it as soon as  
6 possible and meeting more with the affected  
7 communities. We've heard a lot about the Gang  
8 Database. In my submission I will include the IDS  
9 Gang Datasheet, Gang Data Entry Sheet, which they  
10 gave me in 2013 in response to a FOIL. Everything  
11 they say suggested those are still the criteria being  
12 used. Self-admission, which to be clear they do  
13 select these kids. They stop them, you know, you're  
14 hanging out with these, or you're—who do you roll  
15 with, et cetera, et cetera. So that makes you. I  
16 saw on social media. I'm going to force you to  
17 unlock your phone, et cetera. They—this self-  
18 admission may very well just be I saw on our social  
19 media X image, which I say makes you a gang member  
20 and you're representing. A very interesting thing  
21 [bell] that obscures the notion that there—that  
22 these—this database is not based on association and  
23 appearance if they keeping repeating that the average  
24 arrest—number of arrests or Gang Database entries or  
25 are 11 arrests. That is a huge number of arrests,

2 and when Operation Crewcut was announced, then—then  
3 Chief Commissioner Kelly said we will stop these for  
4 everything, for riding bikes on the sidewalks for  
5 everything to try to get information. They're  
6 stopping, they're debriefing them. Being in the Gang  
7 Database makes these kids incredibly vulnerable. Now,  
8 they say it's precision and I just finished a report  
9 and I will leave copies with you. The Bronx 120 was  
10 supposed to be the biggest gang takedown of two  
11 violent Crews in the Bronx. 120 people were swept up  
12 in a militarized pre-dawn raid, their families  
13 traumatized, doors broken in, slashed balconies,  
14 helicopters above, slot keys. Sixty of those people  
15 were not gang members according to the prosecutor's  
16 submission. Eighty were not convicted based on any  
17 kind of violent conduct only about one in six was  
18 convicted of possession—possessing a gun. Many of  
19 them not accused of using the guns. So, the notion  
20 that this is precision is totally a nonsense label  
21 that we do need to resist. The report has more  
22 details, but despite the fact that two-thirds have  
23 never had a felony conviction before growing up in  
24 the--this neighborhood heavily policed all but five  
25 ended up with felony convictions. Three were

2 declined prosecution, two were allowed to plead to  
3 misdemeanors, two went to trial and got a felony  
4 conviction after trial, and in each of those cases  
5 the evidence was so weak that I think if you had  
6 tried to it with the whole Rico conspiracy in the  
7 state court appears, they would have come out not  
8 guilty on most or all of the charges. Many of the  
9 people convicted for the felonies had Marijuana  
10 distribution as the basis of their narcotic felonies  
11 and repeat prosecution for conduct that happened  
12 before and it was adjudicated in New York State's-  
13 State Courts. So, someone who finished the programs  
14 and finished probation double jeopardy does not bar  
15 those retrials, and at least half of them were  
16 retrials-retried for-for previous conduct. I do have  
17 a quick

18 CHAIRPERSON RICHARDS: You're going to  
19 have to wrap up.

20 DAVE HOWELL: Okay. The-on the specific  
21 proposed I would ask you to hold back because there's  
22 a risk of increasing youth vulnerability to gangs.  
23 Police labeling-you mentioned you were afraid of your  
24 mother. In some of these cases kids are in foster  
25 care or with guardians. They could get thrown out on

2 the street with inaccurate gang allegations. Even  
3 accurate one can make parents respond punitively and  
4 push kids into gangs. Inaccurate or accurate put  
5 them in—in pre-trial detention in gang units. The  
6 best way to increase gang violence is to do what the  
7 NYPD are doing in terms of suppressing gangs. You're  
8 putting out fire with gasoline here. So, I would say  
9 that there is no safe way to notify minors, and it  
10 should and—and this should at least abolish as to  
11 minors and then if you—if you must comprise, you  
12 know, notice and real due process for adults. And  
13 then finally we know New York has been successful.  
14 Why do we now have so much gang? What brought it  
15 down? Those were questions that were being asked  
16 earlier. We used street outreach workers in the '50s  
17 and '60s. We now have Cure Violence. They told you  
18 to Stop and Frisk, Broken Windows all these things  
19 prevented crime, and now they're telling you  
20 Precision Policing was really started last week, you  
21 know. We know what to do. The City Council has been  
22 very supportive of those good efforts, and I would  
23 say put more effort there. Bring gangs even into the  
24 States as Ecuador and Barcelona have done. Work with

2 them because they are members of our communities who  
3 can and will contribute. Thank you.

4 CHAIRPERSON RICHARDS: Thank you.

5 VICTOR DEMPSEY: Good afternoon. My name  
6 is Victor Dempsey. I'm the Community Organizer for  
7 Legal Aid Society's Criminal Justice Unit. As you may  
8 know, we work directly with the Cure Violence sites  
9 in all five boroughs, which is 24 sites at this  
10 moment. The Legal Aid Society submits its testimony  
11 to the Committee on Public Safety to share  
12 perspectives on why the proposed law to amend the  
13 Administrative with the city of New York in relation  
14 to providing notice of minors including the Criminal  
15 Group Database was insufficient to address broader  
16 problems of having the database and being labeled  
17 gang involved. We thank Chair Richards for the  
18 opportunity to address this important topic. I won't  
19 take up too much time, but I do want to give some key  
20 points that are very key to us. We know for a fact  
21 that this is over-inclusive and inaccurate, too, of  
22 law enforcement. This unfortunately targets black  
23 and brown youth. We're working with our Cure  
24 Violence sites in all these boroughs. We have a  
25 direct line and it's open communication in

2 relationship to all the communities that it is  
3 directly affecting. We see these cases numerously.  
4 We have clients and community members who come up to  
5 his being our legal agency in that area and speak  
6 directly about these cases. I worked at the Cure  
7 Violence organization enforcement and it has allowed  
8 us to do so also. We know right now that—sorry. It's  
9 really good. We know right now that doing workshops  
10 going into the communities, training youth, putting  
11 everybody—bringing awareness to what's going on, we  
12 start to there and day what the youth comments have  
13 to say, Well, this is what I noticed, and this is  
14 what's been happening to me. A lot of times there  
15 are criminal investigations that are happening. So, I  
16 listened to the testimony prior or a little bit  
17 earlier today, and I can see that being in  
18 contradiction there. We have youth come up to us  
19 that's being targeted because they may know someone  
20 else in the communities, and they're being shaken  
21 down by officers trying to get to someone else in  
22 some cases. We've also seen instances where this  
23 label is targeting these folks, and allowing, and not  
24 allowing them to move forward in their lives whether  
25 they were prior affiliated or associated or not. I—I

2 shared a testimony with you all. I would like if you  
3 can turn to Exhibit 1 on page 11. Legal Aid has  
4 launched a four-year Self Campaign where we have  
5 allowed folks in a community to FOIL themselves to  
6 ask NYPD if they are on this database. On that  
7 exhibit on page 11, you can see from the NYPD's  
8 language their responses to us. I don't know if you  
9 have it. [coughs]

10 COUNCIL MEMBER MILLER: [off mic] Page  
11 11?

12 VICTOR DEMPSEY: Yes, page 11. [pause]  
13 Well, page 12. Sorry. [laughs] It's next to it.  
14 Yeah, so those—those are responses and Appeal  
15 Responses from NYPD. We know from our own FOIL  
16 submission is that the NYPD does not comply with FOIL  
17 requests, and that they used the same boilerplate—  
18 boilerplate responses to the 90 petitions for removal  
19 under this bill. We've done over 350 requests  
20 submitted and ever single one of them has been  
21 denied. We do this so we can empower the communities  
22 to know if they're being targeted or to know if  
23 they're being house to the database just to give them  
24 the opportunity to either change their lifestyle or  
25 change patterns or also connect them with our Cure

2 Violence sites. We have been denied the access by  
3 NYPD under this law as well, which is very  
4 concerning, and really to point out when they do  
5 respond they're such language blatantly saying if  
6 this goes, it will reveal now routine techniques and  
7 procedures. So, in this we take it that they're  
8 acknowledging the fact that they're surveilling folks  
9 unwilling and not giving them any type of due process  
10 to move on from it. I do also want to point out when  
11 it comes to sharing data as well, unfortunately, we  
12 know that's a blatant lie. I've used that term  
13 previous. The reason why because the clients that we  
14 work with regularly they come to us then with housing  
15 issues. If someone has been accused of being  
16 affiliated, NYCHA is trying to kick their families  
17 out. They're putting them on permanent schools and  
18 lists. We also know that it does affect folks'  
19 employment. We have clients that's come to us where  
20 they tried for a school safety or things of that  
21 nature, and they're getting this information within  
22 the department, and they're saying they're being  
23 washed out from just applying to that with no  
24 criminal activity or no priors as well. We are  
25 willing to submit that information, and it will be

2 redacted, of course, but we do want to provide that  
3 as well.

4 CHAIRPERSON RICHARDS: Can I ask you to  
5 wrap up?

6 VICTOR DEMPSEY: No problem. Lastly, I  
7 wanted to— Lastly, I'll just say we feel this bill—  
8 this bill is insufficient to address the larger  
9 problem with the database, and it will create a  
10 burden for the minor to begin the petitioning process  
11 when it really should be something that's automatic  
12 like the errand. (sic) So, we just say from Legal  
13 Aid we do not like want this bill to be passed, and  
14 we think there are alternatives that we're looking  
15 into, and look forward to talking to you about it  
16 later.

17 CHAIRPERSON RICHARDS: Great.

18 CRAIG LEWIS: Good afternoon. It's a  
19 pleasure to speak to you guys on this situation—this  
20 serious situation. I'm directly speaking on the Gang  
21 Database and gang policing and Precision Policing.  
22 My name is Craig Lewis. I was directly affected by  
23 gang policing, and the Gang Database. I was swept up  
24 in a federal gang sweep due to my childhood  
25 interactions with my friends. I was a part of the

2 Bronx 120 that she just spoke about. My evidence was  
3 Facebook post, using videos and the government's  
4 interpretation of my Wiatel. I had no criminal  
5 record, and I was in school for six to seven years.  
6 I was in grad school when they came for me. I had  
7 one more semester left to become someone like you. I  
8 spent 22 months in jail, and I don't believe that me  
9 sitting in jail with no criminal record and no  
10 evidence of a crime due to a database is right. I  
11 shouldn't be in the same facility as El Chapo. I  
12 feel as though my rights were violate, but I'm here  
13 to speak on behalf of the youth in my neighborhood  
14 because I have to go back, and I had the degree in  
15 criminal justice, and I got the job to become a  
16 lawyer. So, what do I tell them that's down there  
17 getting gang police, and-and-and-and stop and search  
18 and beat up in my neighborhood in the Bronx when 120  
19 happened. I don't believe gang policing is right.  
20 I'm not talking politically wrong or politically  
21 right. I'm talking morally. What happens to the kid  
22 that grows up in that-that neighborhood, gets beat on  
23 every day, goes to his brothers for protection. He's  
24 a nerd, and he goes to Catholic school. He doesn't  
25 even curse. He leaves the neighborhood, and keeps in

2 contact with the people that protected him his whole  
3 life, and then he falls in the Gang Database, and  
4 gets swept. Now, he got a felony and he can't become  
5 you, he can't and I say you because a black man, and  
6 I wish I could be, but I can't now because of what  
7 they did to me, and I'm trying to stop that from  
8 happening to the youths in my neighborhood, and  
9 that's like from the bottom of my heart. This is not  
10 about no money or politics for me. I'm here strictly  
11 on the Gang Data-Database. It's not right. I get  
12 pulled over three, four times a week, and before I  
13 get to talking to the officer, I let him know that  
14 you're going to let me go. I know how I look, but I  
15 have a degree. I'm educated and I'm probably smarter  
16 than you, and then they look at me, and they find  
17 books like my-my Alex's book in my car, and they're  
18 looking, and now what you know about End the  
19 Policing? I show my textbooks and-and they let me go  
20 every single time. [bell] I'll wrap it up. What I  
21 think we should do instead of focusing on throwing  
22 our youths in jail even if they don't have no record  
23 it seems like this is all about just control, and  
24 surveilling them. I think we should educate them. We  
25 should focus on educating them, turning the 16-year-

2 olds into lawyers instead of felons. Turn the 16-  
3 year-olds into doctors instead of inmates. I think  
4 maybe some safe interventions of camps, community  
5 centers. Even if you took them instead of putting  
6 them in jail you put them in some school or military  
7 something, maybe you come back with some hope. From  
8 16 to 25 you're growing. If you keep throwing 16-  
9 year-olds in jail giving them felonies, how they  
10 going to become you? And that's—that's just—that's—  
11 that's what—that's my take on the Gang Database.  
12 It's wrong, and something needs to be done there and  
13 stop closing us. I was a good kid. I was a good kid  
14 and people rarely even told me, he even said it that  
15 people make mistakes. They made a mistake with me.  
16 I was making a mistake on the whole community who  
17 continue doing this. Thank you.

18 CHAIRPERSON RICHARDS: Thank you and let  
19 me just add I know I look eloquent today, but I grew  
20 up in the neighborhood, too, [laughs] and, you know,  
21 by the grace of God my parents with every dollar they  
22 had shipped me out of the neighborhood. So, I share  
23 your story because all of my friends, I know we look  
24 eloquent up here, but I grew up in South Jamaica.

25 CRAIG LEWIS: I mean God bless you.

2 CHAIRPERSON RICHARDS: [interposing] God  
3 knows.

4 CRAIG LEWIS: God bless you, too.

5 CHAIRPERSON RICHARDS: So, so I  
6 definitely share the common goal in, you know, our  
7 goal I just to make sure we're pulling people out of  
8 this database at the end of the day. I mean in all  
9 honesty it should be abolished, but we're taking baby  
10 steps or least keep the conversation flowing. So,  
11 this is not the end all. We all share, you know, I  
12 sat in a room as and elected official with gang  
13 members who I knew were doing shootings, and we were  
14 able to get them to do truces. So, we're trying to  
15 work with them as well to make sure. That's why we  
16 were a big proponent as well of Cure Violence in Far  
17 Rockaway, which has made a big difference, [laughs]  
18 and really working with my brothers and people I know  
19 out there as well. So, we all share the common goal.  
20 We just got to figure a way of how to get there, but  
21 we want to keep this conversation going. So, I  
22 appreciate all of the testimony, and I appreciate  
23 your story, and for you coming down here. You're an  
24 inspiration to me. I'm trying to get the grassroots.

2 So, if you guys [laughter] do that. So, you know,  
3 you know, that's kudos to you.

4 CRAIG LEWIS: I appreciate it.

5 CHAIRPERSON RICHARDS: So, keep up doing  
6 positive work. Don't let that define you. Keep  
7 going.

8 CRAIG LEWIS: Alright.

9 CHAIRPERSON RICHARDS: Alright?

10 CRAIG LEWIS: Thank you.

11 CHAIRPERSON RICHARDS: Thank you all.

12 Alrighty, this is the last panel. I'm going to ask  
13 everybody to really stick to the time because we've  
14 got to get out of here because they have another  
15 hearing in here. So, Hernandez, Diane Malika,  
16 Kingston and also David Pacino. Alrighty. So, David  
17 Pacino-Pacino, sorry. Diane Malikum, Mooman Kingston,  
18 and Oscar Hernandez. [background comments/pause]

19 DAVID PACINO: Thank you very much to  
20 the-the Chair. I'm very happy to be here today. My  
21 name is David Pacino. I'm a staff attorney with  
22 Keifer's Law Center to Prevent Gun Violence, which is  
23 the Gun Violence Prevention Organization founded by  
24 former Congresswoman Gabby Giffords. I'm here today  
25 to testify in support of Intros 1548 and 1553. I'll

2 say in short that we support both bills. We think  
3 they are fantastic, and—and really great efforts to  
4 combat the scourge of ghost guns. I—I have in my  
5 written testimony provided some more details there.  
6 I—considering the time I don't want to dive in too  
7 deeply, but I will just say that we know that these  
8 gangs are involved in—in shootings now. There have  
9 been a number of shootings over the past several  
10 years of the numbers increasing. These firearms are—  
11 are trafficked in—in large quantities. They are  
12 really a traffickers dream because they don't involve  
13 any paperwork, they don't involve any background  
14 check and once they've been sold off they can't be  
15 traced back to the trafficker in the first place. So,  
16 we're very supportive of this legislation, and really  
17 appreciate the Council's efforts to—to address this  
18 problem. I have on Intro 1553 some suggestions about  
19 how the legislation could be strengthened.  
20 Specifically first, I would—I would encourage the  
21 Council to consider more expressly stating that the  
22 sale or transfer of unfinished firearms into the city  
23 is prohibited. I know the work currently in there is  
24 disposed, and I have some concerns that there might  
25 be some ambiguity about whether the seller would have

2 to be in city. The reason I raise this is because  
3 the purveyors of these parts are often Internet  
4 companies who are selling from elsewhere than the  
5 United States, and I think we should be absolutely  
6 that this legislation prohibits their sales into the  
7 city. The second suggestion I would make relates to  
8 the definition of unfinished frame or receiver. The-  
9 the language currently would only have unserialized  
10 frames or receivers—unfinished frames or receivers  
11 capped (sic) within the definition. So, if it had a  
12 serial number it would not be covered by the  
13 legislation. That's great in that it would have a  
14 serial number, but the issue is that it still would  
15 not be subject to a background check. So, under  
16 federal law a frame or receiver that finished is  
17 subject to a background check, but the unfinished one  
18 would not be, and here the serial number would—would  
19 exempt it from the background check requirement. So,  
20 what I'm suggesting instead would be to have the—the-  
21 that definition portion struck from there and then  
22 added into the prohibiter section to say that an  
23 unfinished frame or receiver can only be possessed or  
24 transferred if it has a serial number, and if the  
25 transferee or possessor has a gun with a license, and

2 then the—the final suggestion I would make is that I  
3 would add record retention requirements. So, the—the  
4 current serialization requirements are those that are  
5 under federal law. I would have the record retention  
6 requirements under federal law, and that require the  
7 sellers to retain those, and that require those to be  
8 sent to the NYPD as well. So, thank you again for  
9 the opportunity to testify today. [bell]

10 CHAIRPERSON RICHARDS: Thank you so much.

11 DIANE KINGSTON: Good afternoon, good  
12 afternoon. My name is Diane Kingston also known as  
13 Diane Malika Momine Houston (sic) and I'm a mother of  
14 seven children. I grew up in tough neighborhoods all  
15 my life, and I have never been affiliated with gangs.  
16 I never wanted to be a affiliated with gangs, but I  
17 have problems with gangs in my community and in my  
18 building. Some of them work in the schools. Some of  
19 them work in the community centers. However, I'm the  
20 type of person that is a person of most high  
21 diversity. I have a track record of doing so, but it  
22 seems as though some people that are actually in the  
23 gangs and it's not necessarily Bloods and Crips.  
24 We're talking about people that come in from  
25 overseas, from Asia, Africa, from Europe that come

2 into our cities and our towns where we live and  
3 they're not considered as gang members, and I find  
4 that a very serious atrocity against the people who  
5 live in the community because some of these people  
6 they actually open up businesses in other  
7 communities. So, I have a serious problem with that,  
8 and one of the other major problems I have, which I  
9 was in the other room listening to the testimony of--  
10 of you. I can't see your name so well.

11 CHAIRPERSON RICHARDS: Donovan.

12 DIANE KINGSTON: Yeah.

13 CHAIRPERSON RICHARDS: Donovan Richards.

14 DIANE KINGSTON: I'm--I'm so sorry. Yeah.

15 CHAIRPERSON RICHARDS: I'm trying not to  
16 give my name.

17 DIANE KINGSTON: Yeah, you know, I'm so  
18 sorry. I do apologize for that misunderstanding  
19 because, you know, I know I'm am affiliated with a  
20 lot of politicians. I come chasing them around  
21 basically to see what they're doing because I'm  
22 affected by laws that are being created, and so are  
23 my seven children. So, my whole point in this I do  
24 have a problem with the 60% of minorities being  
25 targeted for this Crime Database, but then again it's

2 a good thing, and it could be a bad thing. The  
3 reason why it can be a bad thing is because it does  
4 criminalize a lot of minorities, and this 1% of the  
5 Caucasians other than Blacks, and I—from what I  
6 understand, Hispanics are also considered white  
7 because I just came out of college in 2017, and  
8 according to the census, like Hispanics are also  
9 considered white. So, what am I saying here? It's  
10 that, you know, gang membership doesn't always mean  
11 with the people on the streets with guns and knives.  
12 It also means some people would even say NYPD is a  
13 gang. I don't totally agree. Some people would say  
14 the government is a gang. So, where am I going with  
15 this? I mean I think that this proposal should be a  
16 little pause on it also so I can thoroughly examine  
17 it, and also come up with my—because I do case  
18 studies on just about everything including myself.  
19 So, I would like [bell] a—I would like a pause on  
20 this proposal so that I can thoroughly examine it  
21 because there's a lot of things in there that is very  
22 important that I feel that I would be an—and awesome  
23 contributor to the process of this bill. I really  
24 would appreciate it.

2 CHAIRPERSON RICHARDS: Thank you for your  
3 testimony--

4 DIANE KINGSTON: Thank you.

5 CHAIRPERSON RICHARDS: --and for coming  
6 down.

7 MALE SPEAKER: Good afternoon, Chairman  
8 Richards. I would like to thank you for the  
9 opportunity to give my testimony. I'm here today  
10 because I have been directly impacted by the New York  
11 City Gang Database. It's been over 10 years since I  
12 left gang place in Yahoo. I'm a former member the  
13 Trinitarios. I'm from Brooklyn, New York, you know,  
14 I've attended college. I've graduated, you know,  
15 with an Associate in Business Administration. I got  
16 a job. I have a great job right now, but to date--to  
17 this day I'm still being harassed, I'm still being  
18 followed around. I'm still being asked questions  
19 about gang affiliation and about the Trinitarios.  
20 Recently, I went through a situation where I was  
21 issued a warrant for a--a traffic violation. I was  
22 taken to the 107 Precinct. I was sat in a--in a--an  
23 interrogation room for about five hours. I waited  
24 for a Gang Unit to come and see me. They wanted to  
25 come see me. That's how I found out I'm still

2 affiliated with the Gang Database. I was asked  
3 questions about the Junior Guzman case. I was asked  
4 questions about a gang raid that happened in Astoria,  
5 Queens that I have no knowledge about. I was asked  
6 questions about from other gang members of the  
7 Trinitarios group that I have no knowledge about.  
8 I'm 27. When I first joined this gang I was 16 years  
9 old, you know, I made mistakes. I paid, you know,  
10 the consequences of joining the gang, but I'm  
11 actually today, you know, that I'm, you know, I'm  
12 here today to tell you that I oppose this bill, the  
13 2223. It's not right for them to do an individual as  
14 myself still facing issues with the Gang Database.  
15 Here there's an analysis that says you guys are just  
16 targeting the youth, but what about those individuals  
17 that are over 18? I'm not just speaking on behalf of  
18 myself. I know numerous gang members and different  
19 gangs—and gangs on the New York City that have  
20 changed their life around completely, you know, have  
21 families, take care of their families and go to  
22 school. I'm still going to school now. Have jobs,  
23 you know, providing for the community that they live  
24 in. So, I don't think it's right that you guys just  
25 targeted the youth with this bill. I think you guys

2 should take into consideration those that are above  
3 18. You know, I-I had no knowledge that I was still  
4 in this, um, in this database after my probation.  
5 So, I ask you today-today just to see if you guys can  
6 not pass this bill. There's different alternatives  
7 you guys should take in the communities. If I was to  
8 go around New York City right now, and go to the  
9 heavily populated gang areas in New York, and ask  
10 them about programs, ask them about, you know,  
11 employment, development in the neighborhood, nobody  
12 would know anything. The testimony of the NYPD  
13 earlier they stated that they have numerous programs  
14 that I didn't even know about. You know, if I was to  
15 go into my neighborhood, and ask youths in the high  
16 school areas that I know are gang, you know, that are  
17 heavy gang affiliated, nobody would know any programs  
18 the-the, you know, the NYPD was stating about. [bell]  
19 So, again, I want to thank you for giving my  
20 testimony, and hopefully something is done  
21 immediately.

22 CHAIRPERSON RICHARDS: Thank you so much-

23 MALE SPEAKER: [interposing] Thank you,  
24 sir.

2 CHAIRPERSON RICHARDS: --for your  
3 testimony. I want to thank everybody for coming out  
4 today I want to thank everybody especially the young  
5 men who came out to-to testify today on this  
6 legislation. As we've said, we look forward to  
7 working with all the advocates continuing to have the  
8 conversation. So, it's the beginning of a  
9 conversation on a database. You know, we have a lot  
10 of work to make sure that there's a more just New  
11 York City, that the justice system is working for the  
12 people that live in my neighborhood and people who  
13 are impacted. So, we look forward to a continued  
14 conversation on this. I want to thank everybody for  
15 coming out today. This hearing is now closed.

16

17

18

19

20

21

22

23

24

25

1 COMMITTEE ON PUBLIC SAFETY

158

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date July 14, 2019